

SUPREME COURT OF THE STATE OF NEW YORK
COUNTY OF KINGS: CRIMINAL TERM: PART 2

-----X

THE PEOPLE OF THE STATE OF NEW YORK,

-against-

Indictment No.:
6615/2012
(Trial)

ATARA WISDOM,

Defendant.

-----X

Supreme Courthouse
320 Jay Street
Brooklyn, New York 11201
June 26, 2014

B E F O R E:

THE HONORABLE ALBERT TOMEI, JUSTICE

A P P E A R A N C E S:

HON. KENNETH P. THOMPSON, ESQ.
District Attorney - Kings County
350 Jay Street
Brooklyn, New York 11201
BY: PHYLLIS CHU, ESQ.
Assistant District Attorney

DAVID WALENSKY, ESQ.
Attorney for Defendant
910 Stuart Avenue
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BY: DAVID WALENSKY, ESQ.
- and -
JOSHUA POVILL, ESQ.

MARLIN CASSIDY
Senior Court Reporter

Voir Dire

1 (Whereupon, the following took place in open
2 court:)

3 THE CLERK: Your Honor, this is calendar
4 number one, case on trial, Indictment 6615 of 2012,
5 People versus Atara Wisdom. Defendant is incarcerated,
6 produced before the Court, present with attorney.

7 Appearances are the same.

8 THE COURT: All right, bring in the jury.

9 MR. POVILL: Your Honor, is it okay if I
10 approach the water?

11 THE COURT: Yes,

12 (Whereupon, there was a brief pause in the
13 proceedings.)

14 COURT OFFICER: Panel entering.

15 (Whereupon, the panel of prospective jurors
16 entered the courtroom.)

17 THE COURT: All the way down. Move all the
18 way down, sir, all the way down.

19 THE CLERK: All rise, please, and raise your
20 right hand.

21 Do you and each of you sincerely and solemnly
22 swear or affirm that you will answer truthfully all
23 questions asked of you relating to your qualifications
24 to serve as jurors in this action?

25 What is your response?

Voir Dire

1 (Whereupon, the prospective jurors responded.)

2 THE CLERK: Please be seated.

3 THE COURT: Good morning, ladies and
4 gentlemen. I want to welcome you to Part 2 of the State
5 Supreme Court, the Criminal Term. I am Supreme Court
6 Justice Albert Tomei and I will be presiding over the
7 case of the People of the State of New York against Ms.
8 Atara Wisdom.

9 Ms. Wisdom has been charged in an indictment
10 with the crime of murder in the second degree, which
11 allegedly occurred on or between November 29th, 2011 and
12 January 3rd, 2012 inside of 832 Bushwick Avenue in the
13 Bushwick section of Brooklyn.

14 I would say now that that charge is merely an
15 allegation, an accusation. It is evidence of nothing.
16 A little later on I will explain to you exactly what an
17 indictment is.

18 But before we proceed, what I would like to do
19 is introduce you to the principal parties involved in
20 this matter.

21 First of all, I'd like to introduce you to the
22 defendant, Ms. Atara Wisdom. Would you please stand,
23 turn around and introduce yourself.

24 THE DEFENDANT: Hi everyone.

25 THE COURT: She's represented by her

Voir Dire

1 attorneys, Mr. Joshua Povill and Mr. David Walensky.

2 MR. WALENSKY: Good morning, ladies and
3 gentlemen.

4 THE COURT: And representing the District
5 Attorney of Kings County is Ms. Phyllis Chu, Assistant
6 District Attorney.

7 MS. CHU: Good morning, ladies and gentlemen.
8 Good morning.

9 THE COURT: This process that we're going to
10 engage in is called the voir dire, it's the jury
11 selection process, and it has a French name, voir dire,
12 which means to see them say. So, basically, what I'm
13 going to do, and the attorneys are going to do, is ask
14 you various questions regarding your background,
15 backgrounds, and your ability to be fair and impartial
16 in this matter.

17 A lot of these questions are very personal in
18 nature. You should not be offended if we do ask these
19 questions because we're not asking them for a frivolous
20 reason. It's very important that those who sit as
21 jurors be free of any biases or prejudices and make
22 their decision solely on the evidence or lack of
23 evidence.

24 So, if you do not wish to reveal your answer
25 to a particular question, or if you have something that

Voir Dire

1 you feel should not be made public, just let the Court
2 know and you will be able to make your statement at the
3 bench in the presence of the attorneys and myself.

4 The first part of the selection process, with
5 respect to the first part of the selection process, I'm
6 going to make a general inquiry of you jurors, which
7 means that I'm going to ask you not to respond to my
8 questions or statements unless I ask you to do so.
9 Okay.

10 I will tell you now that, first of all, I'd
11 like to thank all of you for responding to jury service.
12 Serving on a jury is, I believe, one of the hallmarks of
13 citizenship and it's probably one of the most important
14 civic activities that one can participate in and it's
15 also a service which is highly prized in this country,
16 and outside of military service it's probably the
17 highest service that one can contribute to one's
18 country.

19 I don't suffer excuses very easily or very
20 gladly. If you have a legitimate reason why you cannot
21 sit, then you will return to the Central Jury Room and
22 become part of another panel.

23 I also will tell you that this process is very
24 repetitious, it's extremely boring, but nevertheless
25 it's probably one of the most important aspects of the

Voir Dire

1 whole trial procedure, so you have to listen very
2 carefully to all of these questions that are being asked
3 of the various jurors.

4 Also, we have a limited amount of time in
5 which to speak to you ladies and gentlemen, so if there
6 is something -- and of course you know yourselves better
7 than we do -- so if there is something that would
8 prevent you from sitting in this matter and we haven't
9 touched on it, please let us know because once you are
10 selected, it will be very difficult for the Court to
11 proceed under those circumstances and I will not be a
12 very happy camper. Okay?

13 Also, be aware that I know -- I've been
14 doing this for close to thirty-six years, I've been a
15 Judge, so I know every excuse known to man or woman,
16 okay, except the one that you may give me today. So,
17 please, if you think you're going to scoot out of here
18 because it's inconvenient, that's not going to happen,
19 okay.

20 I don't expect you to do so but I am just
21 telling you, if it's legitimate, you will be excused; if
22 not, you are going to remain.

23 I know you're all here at a great sacrifice
24 because you only get what is it, \$40 a day now,
25 something like that. At one time people used to get

Voir Dire

1 only \$12 a day. But nevertheless, that's still not a
2 substantial amount of money for your service.

3 So what I am going to do is --

4 Oh, what I am going to do right now --

5 By the way, how many of you have actually
6 served on a jury before, criminal jury?

7 About -- a few of you, okay. So most of
8 you --

9 Do any of you ladies and gentlemen know any of
10 the parties -- I asked them to introduce themselves to
11 you -- or anyone else in the courtroom?

12 I see no hands, all right.

13 So this general inquiry will be limited to
14 questions that I will put to you. If I ask for a
15 response, give me one but otherwise don't.

16 All right.

17 Once I have concluded my general inquiry, then
18 if you wish to make a statement, you may raise your
19 hand.

20 First of all, I'd like to know if any of you
21 ladies and gentlemen have any physical disabilities or
22 maladies that would prevent you from sitting for a
23 period of up to an hour, an hour and fifteen minutes.
24 If after ten minutes you need a break, it's reasonable,
25 we'll take a break.

Voir Dire

1 I would also like to know if any of you ladies
2 and gentlemen are taking any medication or drugs that
3 would prevent you from listening or cause you to be
4 upset and distract you from the proceedings themselves.

5 And I will be perfectly honest, ladies and
6 gentlemen, unless you're in horrible physical condition,
7 I'm not going to excuse you. All right?

8 I would also like to know if any of you ladies
9 and gentlemen have any difficulty hearing or seeing or
10 communicating in the English language or understanding
11 the English language. In order to be a juror you need
12 not have any particular education. Basically what you
13 need is just your common sense and your lifetime of
14 experience. So, if you're eighteen years or older and
15 you have common sense, you have no other issues, you
16 would probably be able to sit on this jury.

17 Are there any --

18 Are there any individuals here in this group
19 right now of potential jurors who do not understand the
20 English language or have or has difficulty communicating
21 or understanding the English language?

22 Just raise your hand if you do.

23 Ma'am, stand, give your name.

24 PROSPECTIVE JUROR: My name is Irina Slobod.

25 THE CLERK: Last name?

Voir Dire

1 PROSPECTIVE JUROR: Slobod.

2 THE CLERK: Spell it.

3 PROSPECTIVE JUROR: S-L-O-B-O-D.

4 THE COURT: Slobod?

5 PROSPECTIVE JUROR: Yes.

6 THE COURT: You have a problem understanding
7 the language?

8 PROSPECTIVE JUROR: Maybe some terminologies.

9 THE COURT: How long have you been in the
10 country?

11 PROSPECTIVE JUROR: It's a long time.

12 THE COURT: Where are you from?

13 PROSPECTIVE JUROR: From Ukraine.

14 THE COURT: You will be able to sit,
15 understand?

16 Are there any students in the audience who are
17 now attending school?

18 Yes, ma'am?

19 Stand, give me your name.

20 PROSPECTIVE JUROR: Isabell.

21 THE COURT: I'm sorry?

22 PROSPECTIVE JUROR: Isabell.

23 THE COURT: That is your last name?

24 PROSPECTIVE JUROR: My first name. My first
25 name.

Voir Dire

1 THE COURT: What is your last name, ma'am?

2 PROSPECTIVE JUROR: Isbell.

3 THE COURT: Isbell?

4 PROSPECTIVE JUROR: I-S-B-E-L-L.

5 THE COURT: Oh, Isbell, I'm sorry.

6 What school do you attend?

7 PROSPECTIVE JUROR: Queens Transition Center.

8 THE COURT: When do you go to school?

9 PROSPECTIVE JUROR: Every day.

10 THE COURT: Every day?

11 PROSPECTIVE JUROR: Yes.

12 THE COURT: What kind of school is it?

13 PROSPECTIVE JUROR: It's a high school.

14 THE COURT: You are going to high school now?

15 PROSPECTIVE JUROR: Yes.

16 THE COURT: Okay. All right.

17 So it's summer school that you are going to,

18 is that what it is?

19 Why are you going in the summer to school?

20 PROSPECTIVE JUROR: Because I need it.

21 THE COURT: Huh?

22 PROSPECTIVE JUROR: Because I need it.

23 THE COURT: Okay.

24 So you will be excused. You go downstairs to

25 the second floor.

Voir Dire

1 THE CLERK: Back to the second floor, Central
2 Jury.

3 Who else raised their hand?

4 Yes, ma'am?

5 Your name?

6 PROSPECTIVE JUROR: Samantha Walker.

7 THE COURT: Yes, Ms. Walker?

8 PROSPECTIVE JUROR: I am no in the summer
9 classes, but I do, like, go to school.

10 THE COURT: Are you in school right now?

11 PROSPECTIVE JUROR: Not in summer.

12 THE COURT: Sit down.

13 Somebody on my left raised their hand.

14 Now, I would also like to know if any of you
15 ladies and gentlemen have any religious, moral or
16 ethical reasons why you cannot sit in judgment of Ms.
17 Wisdom.

18 I would also like to know if any of you were
19 called to jury service between the dates of June --
20 today is the 26th -- June 26th, 2012 and June 26th of
21 this year.

22 If you were called to serve either in the
23 state or federal court systems, be it the Federal
24 District Court or the state Supreme Court or you were
25 called to sit in the state or city courts or you were

Voir Dire

1 called to serve either in the federal -- on a federal
2 Grand Jury or a state Grand Jury, let me know.

3 You didn't have to -- actually, with respect
4 to jury service, a petit jury is a jury of twelve and a
5 number of alternates.

6 It doesn't mean that you had to actually
7 deliberate on a case, just that you were called to
8 serve.

9 All right.

10 I would like to also inform you, ladies and
11 gentlemen, that this trial should be completed in a
12 rather short period of time. It's not a very
13 extensive matter. We won't be meeting tomorrow, we
14 will meet on Monday, Tuesday and Wednesday, you will be
15 off for Thursday and Friday, and then we will return on
16 the...

17 MR. WALENSKY: The 8th.

18 THE COURT: The 8th, Tuesday the 8th, if it
19 goes that far.

20 Also, I will tell you that once this case goes
21 to the jury and the jury -- if the jury is unable to
22 reach a verdict, then the jury will be excused, you will
23 be allowed to go home and then return the next day. In
24 the past what we used to do, if jurors could not reach a
25 verdict on a particular date, on that particular date,

Voir Dire

1 we would sequester them in a hotel. We don't do that
2 any longer.

3 All right.

4 So, I'm going to --

5 Oh, I don't think I told you this, but maybe I
6 did, I'll indicate it again, as to where this allegedly
7 occurred. The allegation here is that the defendant
8 stabbed to death the victim in this matter and it
9 occurred allegedly inside of 832 Bushwick Avenue in the
10 Bushwick section of Brooklyn.

11 All right.

12 So now if you have a question of the Court
13 regarding what I've said or something that is not known
14 to the Court or the attorneys, let me know, regarding
15 service.

16 I am going to start from my right.

17 Yes, ma'am?

18 PROSPECTIVE JUROR: Sir, your Honor.

19 THE COURT: Stand up, give your name.

20 PROSPECTIVE JUROR: Tara.

21 THE CLERK: Last name?

22 PROSPECTIVE JUROR: Young.

23 My husband is scheduled for surgery on
24 Tuesday, July 1st, and we don't have anyone else to look
25 after our children so it would be a hardship for me to

Voir Dire

1 serve on that particular day.

2 THE COURT: What kind of surgery?

3 PROSPECTIVE JUROR: Foot surgery, your Honor.

4 THE COURT: All right.

5 July 1st is what?

6 PROSPECTIVE JUROR: It's Monday -- it's a

7 Tuesday.

8 THE COURT: Oh, Tuesday.

9 All right, you are excused. Go down to the
10 second floor.

11 Thank you.

12 THE CLERK: Tara is your first name?

13 PROSPECTIVE JUROR: Yes, sir.

14 THE COURT: Yes, ma'am?

15 PROSPECTIVE JUROR: My name Anita McCray

16 (phonetic).

17 THE COURT: Yes?

18 PROSPECTIVE JUROR: I'm a radical.

19 THE COURT: Okay.

20 PROSPECTIVE JUROR: I don't have a lot of
21 respect for the court or the officers.

22 THE COURT: Okay. Sit down.

23 Yes, ma'am?

24 Stand up.

25 PROSPECTIVE JUROR: My name is Patricia Vega

Voir Dire

1 (phonetic).

2 I think I heard you say I can come to the
3 bench so I need --

4 THE COURT: You can.

5 PROSPECTIVE JUROR: May I come up?

6 THE COURT: Yes, come up with the attorneys,
7 please.

8 (Whereupon, the following took place at
9 sidebar:)

10 PROSPECTIVE JUROR: Yes. My son, my
11 three-year-old son, was stabbed June 11th of 2000 -- of
12 1982. To sit here just --

13 THE COURT: He was stabbed?

14 PROSPECTIVE JUROR: Yes.

15 THE COURT: No talking, please.

16 PROSPECTIVE JUROR: He was three. In the
17 Bronx.

18 THE COURT: Was the person who did it
19 apprehended?

20 PROSPECTIVE JUROR: Yes, last I heard.

21 THE COURT: So it would be too upsetting for
22 you to sit?

23 PROSPECTIVE JUROR: Yes.

24 THE COURT: You are excused.

25 (Whereupon, the following took place in open

Voir Dire

1 court:)

2 THE COURT: Yes?

3 THE CLERK: Your first name is Patricia?

4 PROSPECTIVE JUROR: Yes.

5 THE CLERK: Thank you.

6 PROSPECTIVE JUROR: My name is Harris Edelman.

7 In contrast to my seat neighbor, I have
8 tremendous respect for the court system. I am a small
9 business owner. I am not too big to fail. I am just
10 the right size to fail. We survived the recession, or
11 just literally come out of the hole.

12 THE COURT: What kind of business?

13 PROSPECTIVE JUROR: Refurbish computers. It's
14 a small business, you know, fifteen people that work
15 there full-time and we are in Sunset Park, Brooklyn.
16 You can come check us out. But as a business owner we
17 don't have a staff of other responsible parties, for
18 lack of a better word. I am not saying that I am
19 incapable, in fact I would love to be in the position to
20 be able to perform this civic duty.

21 I also employ fifteen people in Sunset Park,
22 Brooklyn. I can't really keep both things going at the
23 same time.

24 THE COURT: You can.

25 Sit down.

Voir Dire

1 PROSPECTIVE JUROR: Okay.

2 THE COURT: Thank you.

3 Yes?

4 Stand up.

5 PROSPECTIVE JUROR: My name is Jawad

6 (phonetic) Ahmed.

7 I have two concerns. First one, our holy day
8 of fasting begins on Sunday. And the second concern
9 was, in my workplace I don't have any backups for my
10 work.

11 THE COURT: What do you do?

12 PROSPECTIVE JUROR: I'm a dietitian.

13 THE COURT: Sit down. Sit down.

14 Yes?

15 Stand.

16 PROSPECTIVE JUROR: My name is Edward Smith.

17 You said if we have a private matter come to
18 the bench.

19 THE COURT: You want to come to the bench?

20 Come on up.

21 (Whereupon, the following took place at
22 sidebar:)

23 THE CLERK: What is your name?

24 PROSPECTIVE JUROR: Edward Smith.

25 THE CLERK: Thank you.

Voir Dire

1 THE COURT: Quiet, please.

2 Ma'am, no talking, please.

3 Say it again.

4 PROSPECTIVE JUROR: I have a parent convicted
5 for murder years ago. It's coming back.

6 THE COURT: You are excused.

7 THE CLERK: Second floor, Central Jury.

8 (Whereupon, the following took place in open
9 court:)

10 THE COURT: Yes, ma'am?

11 Stand and give your name.

12 No, stand and give your name.

13 PROSPECTIVE JUROR: My last name is Didino,
14 D-I-D-I-N-O.

15 THE COURT: What is your problem?

16 PROSPECTIVE JUROR: I am also a small business
17 owner and I'm in the process of opening a second
18 business that's scheduled to launch in two weeks.

19 THE COURT: Sit down, ma'am. Sit down.

20 Okay.

21 Yes?

22 PROSPECTIVE JUROR: My name is Justin
23 Branstein (phonetic). I need to provide child care to
24 my kids tomorrow and Monday. My wife is out of town on
25 business. The kids are in school for the summer.

Voir Dire

1 THE COURT: So provide child care.

2 Sit down.

3 PROSPECTIVE JUROR: I don't have another
4 option.

5 THE COURT: Sit down, please.

6 Next?

7 Next? Anybody?

8 Yes?

9 Stand up.

10 PROSPECTIVE JUROR: Colleen Saul (phonetic).

11 THE CLERK: Last name?

12 PROSPECTIVE JUROR: Saul.

13 I had made previous travel plans and I won't
14 be in the state. I'm leaving Sunday night and not back
15 until Wednesday.

16 THE COURT: You are going out of town?

17 PROSPECTIVE JUROR: Yes.

18 THE COURT: And you have tickets?

19 PROSPECTIVE JUROR: Yeah.

20 THE COURT: Where are you going?

21 PROSPECTIVE JUROR: Pittsburgh.

22 THE COURT: Do you have the tickets with you

23 or...

24 PROSPECTIVE JUROR: I mean, it's on my phone.

25 THE COURT: All right, then you are excused.

Voir Dire

1 Go downstairs.

2 PROSPECTIVE JUROR: Would you like to see it?

3 THE CLERK: Second floor, Central Jury Room.

4 THE COURT: Yes.

5 PROSPECTIVE JUROR: Lorraine Joseph.

6 I will be starting back my third semester at
7 DeVry University in another week-and-a-half.

8 THE COURT: It's all right. You got time.

9 This case will be finished before that.

10 Yes?

11 PROSPECTIVE JUROR: Shanice (phonetic) Hunter.

12 Monday at eleven o'clock I have an appointment
13 because I have to have iron I.V.

14 THE COURT: You have to what?

15 PROSPECTIVE JUROR: Iron I.V.

16 THE COURT: Sit down, ma'am.

17 You can always reschedule that.

18 Who else?

19 Yes, ma'am?

20 PROSPECTIVE JUROR: Hi.

21 My name is Sarah (phonetic) Shaffee.

22 THE CLERK: Last name?

23 PROSPECTIVE JUROR: Shaffee.

24 THE CLERK: Spell it.

25 PROSPECTIVE JUROR: S-H-A-F-F-E-E.

Voir Dire

1 THE COURT: Yes, ma'am?

2 PROSPECTIVE JUROR: Yeah. My fasting starts
3 on Saturday.

4 THE COURT: Your what?

5 PROSPECTIVE JUROR: It's fasting, very, very
6 early in the morning and late night also and --

7 THE COURT: We don't meet on Saturday.

8 PROSPECTIVE JUROR: Pardon?

9 THE COURT: We don't meet on Saturday. We
10 only meet --

11 PROSPECTIVE JUROR: It's for the whole month,
12 it's not just --

13 THE COURT: I can't excuse you, ma'am. Sit
14 down.

15 PROSPECTIVE JUROR: Pardon me?

16 THE COURT: I am not going to excuse you. Sit
17 down. You are going to be fasting, you are going to be
18 fasting here, you are going to be fasting at home.

19 PROSPECTIVE JUROR: Yeah, but we get up early
20 in the morning.

21 THE COURT: Anyone else?

22 All right.

23 Before we proceed with the voir dire I have to
24 to inform you of certain legal principles which, if
25 you're selected as a juror you must comply with, so

Voir Dire

1 listen very carefully to what these are. And as I
2 indicated earlier, an indictment -- well, the defendant
3 has been indicted and charged with the crime of murder
4 in the second degree, but I did indicate and I will
5 indicate again that it's -- that charge is merely an
6 accusation and merely an allegation, it is not proof
7 of anything or probative of anything, it's not
8 evidence.

9 An indictment is simply a piece of paper that
10 charges someone with a crime. It is a consequence, that
11 person is brought into court and then the People have
12 the burden of proving each and every element, material
13 element of the crime charged, in this case it's murder
14 in the second degree, and that burden never shifts to
15 the defendant. The burden always remains with the
16 People.

17 If you are selected as a juror in this
18 matter you will become a judge for a number of days
19 but you will be a judge of a specific area of the law,
20 that is, the facts. You will determine what the facts
21 are in this case based upon the evidence or lack of
22 evidence.

23 I will be the judge of the law. I will tell
24 you what the law is and that will be my province, and I
25 will not interfere in any way with your duty or

Voir Dire

1 obligation to find the facts. I will tell you at the
2 close of this case what the law is and you will take the
3 facts, you will take the facts and the law together, you
4 know, the facts based upon the evidence, and the law and
5 then make a determination, which is called a verdict.
6 Your verdict will be guilty or not guilty, or you may
7 find the defendant guilty of some of the charges, if
8 there is another charge.

9 Now, I have another role at the trial other
10 than telling you what the law is, and that is, I'm
11 going to be listening to the attorneys when they make
12 motions, whether they are making objections and whether
13 they make applications, and I will be ruling on them as
14 a matter of law. None of my rulings should have any
15 bearing upon the defendant's guilt or non-guilt in
16 this case. And none of my rulings should be taken by
17 you as any indication as to whether you should believe
18 all or a part of what is offered as evidence or that
19 defendant is guilty or not guilty. That is solely your
20 function to determine. But you must accept the law as I
21 give it.

22 The defendant and the people want a fair trial
23 to which they are entitled. You must follow the law as
24 I give it to you whether you agree with it or whether
25 you like it or not.

Voir Dire

1 You all agree to accept the law as I give it
2 and not substitute your interpretation of the law? Can
3 you all do that?

4 I gotta hear from all of you in a loud and
5 clear voice.

6 (Whereupon, the prospective jurors responded.)

7 THE COURT: Now, most of the evidence in any
8 particular case comes in the form of sworn testimony. I
9 would say about maybe two to three percent of the
10 evidence may come in as scientific or forensic evidence,
11 but basically most cases that come through these halls
12 of justice are decided upon evidence that comes from
13 the mouths of witnesses, and you as a juror are going
14 to make a determination whether that particular witness
15 is: One, telling you the truth; two, not telling you
16 the truth, that is, lying; or three, is mistaken, okay.
17 And that's going to be your obligation and duty to do
18 that. And, of course, you're going to have to evaluate
19 any other evidence that comes before you.

20 I'm going to give you a list of names. Some
21 of these individuals may or may not be witnesses in the
22 case.

23 Anthony Wilson, he is the victim in this case,
24 the individual that was stabbed to death.

25 Victoria Wilson.

Voir Dire

1 Shakeema Fortune.

2 Donet Robinson.

3 Matthew Shepard.

4 Linda Smith-Harris.

5 Detective Deborah Batanjani of the 83rd

6 Precinct.

7 A Police Officer Garrett Marsden of the 83rd

8 Precinct.

9 Police Officer Christian Carlin of the 83rd

10 Precinct.

11 Police Officer Juana Ortiz of the 83rd

12 Precinct.

13 Detective Geoffrey Hernandez of the Brooklyn

14 North Homicide Squad.

15 Detective Christopher Scandole of the Brooklyn

16 North Homicide Squad.

17 Detective Stephen or Stephen (pronunciation)

18 Markoski of the Crime Scene Unit of the N.Y.P.D.

19 Dr. Frede Frederic of the Chief Medical

20 Examiner's Office.

21 Sarah Philipps, also of the Office of the

22 Chief Medical Examiner DNA Lab.

23 Ed Purce, P-U-R-C-E.

24 A Sprint Nextel phone representative.

25 And there will be a 911 representative.

Voir Dire

1 And what is EBT?

2 MS. CHU: I believe it's the benefits.

3 THE COURT: Benefits person.

4 Anyone know or familiar with any of the names
5 I mentioned?

6 Just let me know by raising your hand.

7 I don't see any hands being raised so I would
8 assume none of you know any of these individuals.

9 All right.

10 As jurors your verdict must be unanimous.
11 Twelve jurors seldom agree immediately and, therefore,
12 you are going to be called upon to deliberate. Can you
13 promise the defendant and the People that you're willing
14 to participate in deliberations, express your views
15 based on the evidence in the case, keep an open mind and
16 listen to the views of other jurors?

17 Can you all do that, folks?

18 (Whereupon, the prospective jurors responded.)

19 THE COURT: Thank you.

20 Now, as Ms. Wisdom sits here she's presumed
21 innocent like anyone else who's been charged with a
22 crime and she remains innocent up until the time a
23 verdict of guilty is rendered, if in fact such a verdict
24 is rendered. Therefore, the People must rebut this
25 presumption, if they can, by presenting evidence which

Voir Dire

1 convinces you beyond a reasonable doubt of the
2 defendant's guilt.

3 In a criminal case the burden of proof is on
4 the People and always remains on the People throughout
5 the course of the trial. The defendant is not required
6 to produce any witnesses. The defendant is not required
7 to produce any evidence. And very importantly, the
8 defendant is not required to testify in this matter, and
9 if she should not testify, it may not be held against
10 her.

11 As I said, the burden is always on the People,
12 they have to prove her guilt beyond a reasonable doubt.

13 Can you all accord this defendant this
14 presumption of innocence?

15 Can you do that, folks?

16 (Whereupon, the prospective jurors responded.)

17 THE COURT: Now, a criminal case is different
18 from a civil case in two important respects. In a
19 criminal case all jurors must agree upon a verdict. In
20 a civil case only five of the six must agree. In a
21 criminal case the People must prove guilt their case
22 beyond a reasonable doubt. In a civil case the
23 plaintiff must only prove his or her case by a fair
24 preponderance of the credible evidence.

25 Now, everybody, I'm sure, has heard the term

Voir Dire

1 "reasonable doubt." I am not going to go into detail or
2 exact detail regarding it, I will do that at the time I
3 charge the jury. But nevertheless, you will be required
4 to acquit the defendant if, at the end of the case,
5 because of the evidence or lack of evidence presented to
6 you, you have a reasonable doubt as to her guilt. If
7 you find guilt beyond a reasonable doubt, then you must
8 return a verdict of guilty. On the other hand, if guilt
9 is not proven beyond a reasonable doubt, you must find
10 the defendant not guilty.

11 Now, you may be saying, well, I never
12 performed this duty before. And as I indicated, there
13 is no school for jurors. The only school for jurors is
14 the school of life, basically.

15 What do I do when I get into the jury room?

16 Well, number one, you are not permitted to
17 consider what the punishment may be with respect to or
18 what the sentence may be with respect to this matter.
19 You may not express any sympathy for the defendant or
20 any of the People's witnesses or the People's position
21 in this matter because they're all extraneous, all
22 right, they're all irrelevant.

23 What's important and what you must focus upon
24 is the evidence or lack of evidence, and if someone
25 should go off the beaten track and get into one of the

Voir Dire

1 irrelevant matters, you must turn to the person very
2 civilly and nicely say, The Judge instructed us that we
3 focus on the evidence or lack of evidence and let's
4 continue on.

5 My next question to you, can you all render
6 your verdict free from sympathy and any of these
7 irrelevant matters?

8 Can you all do that?

9 (Whereupon, the prospective jurors responded.)

10 THE COURT: Thank you.

11 Now, a number of police officers will be
12 testifying in this matter and they are to be treated
13 like any other witness, they are not to be given any
14 greater believability or less believability because
15 they're police officers.

16 However, if you feel because of your own
17 personal experience, the experience of someone close to
18 you, or because of what you've heard or seen in the
19 media you cannot be fair in evaluating a police
20 officer's testimony, let me know now.

21 Stand up.

22 Want to come up?

23 Please come up.

24 (Whereupon, the following took place at
25 sidebar:)

Voir Dire

1 THE CLERK: State your name.

2 PROSPECTIVE JUROR: Anita McCray.

3 THE CLERK: Thank you.

4 THE COURT: What is your position?

5 PROSPECTIVE JUROR: I hate the police.

6 THE COURT: Okay. All right.

7 PROSPECTIVE JUROR: Period.

8 THE COURT: Okay. I am going to send you back
9 to the Central Jury Room.

10 Place Ms. McCray on a civil matter.

11 THE CLERK: You got it. I'll put "civil."

12 (Whereupon, the following took place in open
13 court:)

14 THE COURT: Yes, sir?

15 PROSPECTIVE JUROR: I will have to come up
16 too.

17 THE CLERK: You can step out.

18 THE COURT: You have to go around.

19 Yes, sir, come on up.

20 PROSPECTIVE JUROR: Thanks.

21 (Whereupon, the following took place at
22 sidebar:)

23 THE CLERK: State your name for the record.

24 PROSPECTIVE JUROR: Dennis, last name McCoy.

25 THE COURT: Yes, sir?

Voir Dire

1 PROSPECTIVE JUROR: I'm an employee for the
2 Police Department and --

3 THE COURT: What do you do?

4 PROSPECTIVE JUROR: I am an employee for the
5 N.Y.P.D. and within the department they brought false
6 charges, departmental charges.

7 THE COURT: What do you do?

8 PROSPECTIVE JUROR: I am a maintenance
9 supervisor.

10 And our union failed to represent me. They
11 won. And I don't have the money to get me a lawyer or
12 I'd be suing the Police Department. I don't have the
13 money. Some of the lawyers I did go to didn't want to
14 challenge the Police Department.

15 THE COURT: Okay.

16 So you can't be fair, then?

17 PROSPECTIVE JUROR: No, I can't.

18 THE COURT: I'm just going to put you on a
19 civil matter.

20 You can return to the second floor.

21 THE CLERK: Second floor, Central Jury.

22 (Whereupon, the following took place in open
23 court:)

24 THE COURT: Who else? Who else?

25 Come on up.

Voir Dire

1 (Whereupon, the following took place at
2 sidebar:)

3 THE COURT: Give your name.

4 PROSPECTIVE JUROR: Ludmila (phonetic)
5 Malibayeva.

6 THE CLERK: Spell your last name.

7 PROSPECTIVE JUROR: M-A-L-I-B-A-Y-E-V-A.

8 THE COURT: Yes, ma'am?

9 PROSPECTIVE JUROR: Hello.

10 Many years ago my relative was killed, nobody
11 find who did it. And, also, if something to do, my four
12 friends, they were stabbed with a knife but they
13 survived. And again, it happened in my country.

14 THE COURT: Where?

15 PROSPECTIVE JUROR: Ukraine.

16 THE COURT: That has nothing to do with the
17 police. What is your problem, though?

18 PROSPECTIVE JUROR: I am not sure it has
19 something to do. Because somebody was killed, nobody
20 find the murderer.

21 THE COURT: Where was he killed?

22 PROSPECTIVE JUROR: Where?

23 THE COURT: Yes.

24 PROSPECTIVE JUROR: In my country.

25 THE COURT: What happened in your country is

Voir Dire

1 one thing. My question to you is, the fact that a
2 relative is killed, is that going to prevent you from
3 being fair and impartial?

4 PROSPECTIVE JUROR: I don't know.

5 THE COURT: All right, you are excused. Go
6 downstairs.

7 THE CLERK: What is your first name?

8 MS. CHU: Ludmila Malibayeva.

9 THE CLERK: Second floor.

10 THE COURT: Civil.

11 THE CLERK: Civil case.

12 (Whereupon, the following took place in open
13 court:)

14 THE COURT: All right, before we go any
15 further we are going to take a ten-minute recess.

16 Ladies and gentlemen, I am going to ask you
17 not to discuss the case amongst yourselves or with
18 anyone else and, of course, step outside and just remain
19 there for a few minutes. No more than ten minutes and
20 then we'll call you back in.

21 COURT OFFICER: Step outside. Take all your
22 belongings with you.

23 Do not leave the floor.

24 (Whereupon, the panel of prospective jurors
25 exited the courtroom.)

Voir Dire

1 THE COURT: All right, ten minutes.

2 (Whereupon, a brief recess was held.)

3 THE COURT: Let's get the jury.

4 THE CLERK: Case back on trial. Case on trial
5 continues back and trial continues. Defendant is
6 present with her attorneys.

7 (Whereupon, there was a brief pause in the
8 proceedings.)

9 COURT OFFICER: Panel entering.

10 (Whereupon, the panel of prospective jurors
11 entered the courtroom.)

12 THE COURT: Hats off.

13 COURT OFFICER: Take your hat off, sir.

14 THE COURT: Hats off.

15 Ladies and gentlemen, do me a favor, move all
16 the way down. Don't sit at the end. I mean, there is
17 no reason to do that.

18 Miss, move all the way down.

19 Squeeze in, ma'am. Move down, all the way
20 down.

21 Hats off, please.

22 We can squeeze in. Let's go. Come on.

23 Your name is going to be called, ladies and
24 gentlemen. Please respond "here" or "present".

25 Also, if we mispronounce your name, tell us

Voir Dire

1 what the correct pronunciation is. You will enter from
2 my right, your left, into the well of the court then
3 take a seat. There will be twenty potential jurors
4 seated within the jury box.

5 Proceed.

6 THE CLERK: Seat number one will be Avelon
7 Ramnath.

8 You have to say "here" or "present" when
9 you're called.

10 PROSPECTIVE JUROR: I'm sorry.

11 THE CLERK: You have to state "here" or
12 "present" when you hear your name.

13 PROSPECTIVE JUROR: Present.

14 THE COURT: Last name is spelled
15 R-A-M-N-A-T-H.

16 Seat number one.

17 THE COURT: R-A-M...

18 THE CLERK: ...N-A-T-H.

19 MS. CHU: What is the first name?

20 THE CLERK: A-V-E-L-O-N.

21 Seat number two, Nicholas Derziotis.

22 How do you pronounce your last name?

23 PROSPECTIVE JUROR: Derziotis.

24 PROSPECTIVE JUROR: D-E-R-Z-I-O-T-I-S.

25 THE COURT: T-E-R --

Voir Dire

1 PROSPECTIVE JUROR: D-E-R-Z-I-O-T-I-S.

2 Seat number three, Jean Lackan.

3 PROSPECTIVE JUROR: Here.

4 THE CLERK: L-A-C-K-A-N.

5 Seat number four, Annette Williams.

6 PROSPECTIVE JUROR: Here.

7 THE CLERK: W-I-L-L-I-A-M-S.

8 PROSPECTIVE JUROR: Yes.

9 THE CLERK: Number five is Lorraine Joseph,
10 J-O-S-E-P-H.

11 PROSPECTIVE JUROR: Here, yes.

12 THE CLERK: Seat six, is Shanice (phonetic)
13 Hunter.

14 PROSPECTIVE JUROR: Here.

15 THE CLERK: H-U-N-T-E-R.

16 Seat seven is William Dolan.

17 PROSPECTIVE JUROR: Here.

18 THE CLERK: D-O-L-A-N.

19 Seat eight is Karen Webster.

20 PROSPECTIVE JUROR: Here.

21 THE CLERK: W-E-B-S-T-E-R.

22 Seat number nine is Adriana (phonetic) Didino.

23 PROSPECTIVE JUROR: Here.

24 THE CLERK: D-I-D-I-N-O.

25 Seat ten is William Jenkins.

Voir Dire

1 PROSPECTIVE JUROR: Here.

2 THE CLERK: J-E-N-K-I-N-S.

3 Seat eleven, Francisco Martinez.

4 PROSPECTIVE JUROR: Here.

5 THE CLERK: M-A-R-T-I-N-E-Z.

6 Seat twelve is Lucian Volcy.

7 PROSPECTIVE JUROR: Yes.

8 THE CLERK: V-O-L-C-Y.

9 Seat thirteen is Anastasia Vincent,

10 V-I-N-C-E-N-T.

11 Seat fourteen is Samantha Valenzuela.

12 PROSPECTIVE JUROR: Here.

13 THE CLERK: V-A-L-E-N-Z-U-E-L-A.

14 Seat fifteen is Maleek (phonetic) Sutton.

15 PROSPECTIVE JUROR: Here.

16 THE CLERK: S-U-T-T-O-N.

17 Seat sixteen is Hal Duncan.

18 PROSPECTIVE JUROR: Here.

19 THE CLERK: D-U-N-C-A-N.

20 Seat seventeen is Michael Smargiassi.

21 How do you pronounce it?

22 PROSPECTIVE JUROR: Smargiassi.

23 THE CLERK: Smargiassi, S-M-A-R-G-I-A-S-S-I.

24 Seat eighteen, Henderson (phonetic) Lynch.

25 You have to say "here" or "present."

Voir Dire

1 PROSPECTIVE JUROR: Present.

2 THE CLERK: L-Y-N-C-H.

3 PROSPECTIVE JUROR: Present.

4 THE CLERK: Seat nineteen is Samantha Walker.

5 PROSPECTIVE JUROR: Present.

6 THE CLERK: W-A-L-K-E-R.

7 Seat twenty is Israel Santiago.

8 PROSPECTIVE JUROR: Present.

9 THE CLERK: S-A-N-T-I-A-G-O.

10 THE COURT: All right.

11 Ms. Ramnath, your neighborhood?

12 PROSPECTIVE JUROR: Flatbush.

13 THE COURT: Flatbush.

14 And Mr. Derziotis?

15 PROSPECTIVE JUROR: Bensonhurst.

16 THE COURT: Bensonhurst.

17 What's that noise?

18 THE CLERK: It's the printer.

19 THE COURT: Why is that going off?

20 Ms. Lackan, your neighborhood?

21 PROSPECTIVE JUROR: Canarsie.

22 THE COURT: Canarsie.

23 Ms. Williams.

24 PROSPECTIVE JUROR: East Flatbush.

25 THE COURT: East Flatbush.

Voir Dire

1 Ms. Joseph.
2 PROSPECTIVE JUROR: Canarsie. Canarsie.
3 THE COURT: Canarsie.
4 Ms. Hunter?
5 PROSPECTIVE JUROR: East New York.
6 THE COURT: Ms. Valenzuela?
7 PROSPECTIVE JUROR: Mill Basin.
8 THE COURT: And Mr. Duncan?
9 PROSPECTIVE JUROR: Flatbush.
10 THE COURT: Mr. Lynch?
11 PROSPECTIVE JUROR: East New York.
12 THE COURT: And Mr. Santiago?
13 PROSPECTIVE JUROR: East New York.
14 THE COURT: Ms. Walker or Walkin?
15 PROSPECTIVE JUROR: Walker.
16 THE COURT: Walker.
17 Where do you reside, neighborhood?
18 PROSPECTIVE JUROR: Marine Park.
19 THE COURT: Marine Park.
20 Mr. Smargiassi?
21 PROSPECTIVE JUROR: Bay Ridge.
22 THE COURT: Mr. Sutton?
23 PROSPECTIVE JUROR: Flatbush.
24 THE COURT: Ms. Vincent?
25 PROSPECTIVE JUROR: Bedford-Stuyvesant.

Voir Dire

1 THE COURT: Mr. Volcy?

2 PROSPECTIVE JUROR: Bed-Stuy.

3 THE COURT: Bed-Stuy.

4 Mr. Martinez?

5 PROSPECTIVE JUROR: Bensonhurst.

6 THE COURT: Mr. Jenkins?

7 PROSPECTIVE JUROR: Flatbush.

8 THE COURT: Ms. Didino?

9 PROSPECTIVE JUROR: Bay Ridge.

10 THE COURT: Ms. Webster?

11 PROSPECTIVE JUROR: Crown Heights.

12 THE COURT: And Mr. Dolan?

13 PROSPECTIVE JUROR: Flatbush.

14 THE COURT: All right.

15 First of all, any of you ladies and gentlemen

16 familiar with the crime scene area, which is 832

17 Bushwick Avenue? Anybody familiar, first row?

18 Second row, anyone familiar with that area?

19 No, okay.

20 Ms. Ramnath, you married, single, separated

21 divorced?

22 PROSPECTIVE JUROR: Married.

23 THE COURT: And your occupation?

24 PROSPECTIVE JUROR: Supervisor.

25 THE COURT: Of what?

Voir Dire

1 PROSPECTIVE JUROR: Of musicians union, Local
2 802, musician publishing department.

3 THE COURT: Supervisor musicians union, okay.
4 And your spouse?

5 PROSPECTIVE JUROR: He's not working right
6 now.

7 THE COURT: Is he retired?

8 PROSPECTIVE JUROR: Yes.

9 THE COURT: What did he do before?

10 PROSPECTIVE JUROR: He was a paper cutter.

11 THE COURT: Okay.

12 Thank you.

13 PROSPECTIVE JUROR: You're welcome.

14 THE COURT: Mr. Derziotis?

15 PROSPECTIVE JUROR: Married.

16 THE COURT: Your occupation?

17 PROSPECTIVE JUROR: Manager of a restaurant.

18 THE COURT: And your spouse?

19 PROSPECTIVE JUROR: She works. She's a para
20 for a school.

21 THE COURT: What kind of school?

22 PROSPECTIVE JUROR: Public school.

23 THE COURT: Grade school?

24 PROSPECTIVE JUROR: Elementary school.

25 THE COURT: Elementary, okay.

Voir Dire

1 Ms. Lackan, married, single, separated,
2 divorced?

3 PROSPECTIVE JUROR: Single.

4 THE COURT: Occupation?

5 PROSPECTIVE JUROR: Registered nurse.

6 THE COURT: Okay.

7 And Ms. Williams?

8 PROSPECTIVE JUROR: Single, timekeeper for the
9 N.Y.P.D.

10 THE COURT: You're a timekeeper for the
11 N.Y.P.D.?

12 PROSPECTIVE JUROR: Yes.

13 THE COURT: Where do you work, at One Police
14 Plaza?

15 PROSPECTIVE JUROR: No, Internal Affairs
16 Bureau.

17 THE COURT: Where?

18 PROSPECTIVE JUROR: Internal Affairs Bureau,
19 315 Hudson Street.

20 MS. CHU: IAB.

21 THE COURT: Oh, Internal Affairs bureau.

22 THE COURT: Ms. Joseph?

23 PROSPECTIVE JUROR: Single.

24 THE COURT: Your occupation?

25 PROSPECTIVE JUROR: Customer service for

Voir Dire

1 National Grid and --

2 THE COURT: And what?

3 PROSPECTIVE JUROR: That's it.

4 THE COURT: Ms. Hunter?

5 PROSPECTIVE JUROR: Single.

6 THE COURT: Your occupation?

7 PROSPECTIVE JUROR: I'm a home health aide.

8 THE COURT: Home health aide.

9 Ms. Valenzuela?

10 PROSPECTIVE JUROR: Single.

11 THE COURT: And your occupation?

12 PROSPECTIVE JUROR: I am a lifeguard and swim
13 instructor at the YMCA.

14 THE COURT: At the Y?

15 PROSPECTIVE JUROR: At the YMCA.

16 THE COURT: Mr. Duncan?

17 PROSPECTIVE JUROR: Single.

18 THE COURT: Your occupation?

19 PROSPECTIVE JUROR: Custodian for the
20 Department of Education.

21 THE COURT: I'm sorry, I can't hear.

22 PROSPECTIVE JUROR: Custodian for the
23 Department of Education and customer rep for
24 Access-A-Ride service.

25 THE COURT: Mr. Lynch?

Voir Dire

1 PROSPECTIVE JUROR: Yes, sir.

2 THE COURT: Married, single, separated,
3 divorced?

4 PROSPECTIVE JUROR: Married.

5 THE COURT: Your occupation?

6 PROSPECTIVE JUROR: Window mechanic. Window
7 mechanic.

8 THE COURT: What kind of mechanic?

9 PROSPECTIVE JUROR: Windows.

10 THE COURT: Windows?

11 PROSPECTIVE JUROR: Yes.

12 THE COURT: And your spouse?

13 PROSPECTIVE JUROR: She works for the Supreme
14 Court in Manhattan.

15 THE COURT: Doing what?

16 PROSPECTIVE JUROR: Data entry.

17 THE COURT: And Mr. Santiago?

18 PROSPECTIVE JUROR: Married, retired.

19 THE COURT: What did you do when you worked?

20 PROSPECTIVE JUROR: Union rep for 32BJ.

21 THE COURT: What is 32BJ?

22 PROSPECTIVE JUROR: 32BJ is the service
23 employees union.

24 THE COURT: And your spouse?

25 PROSPECTIVE JUROR: She's a seamstress for a

Voir Dire

1 large designer company in Manhattan.

2 THE COURT: Okay.

3 Ms. Walker?

4 PROSPECTIVE JUROR: I'm single.

5 I'm a full-time student and I work in a
6 cardiologist's office, file rep.

7 THE COURT: And Mr. Smargiassi?

8 PROSPECTIVE JUROR: I'm married ten years
9 today.

10 THE COURT: Congratulations.

11 PROSPECTIVE JUROR: Information technology
12 operations and security for a software firm in the
13 city.

14 THE COURT: An IT person?

15 PROSPECTIVE JUROR: Information technology,
16 yes.

17 THE COURT: And your spouse?

18 PROSPECTIVE JUROR: High school teacher, New
19 York City Department of Ed.

20 THE COURT: What does she teach?

21 PROSPECTIVE JUROR: She -- special ed and ELA,
22 English language arts.

23 THE COURT: Okay.

24 Mr. Sutton?

25 PROSPECTIVE JUROR: Single.

Voir Dire

1 THE COURT: And your occupation?

2 PROSPECTIVE JUROR: Interning at the moment at
3 City & State Magazine.

4 THE COURT: You're an intern at what?

5 PROSPECTIVE JUROR: City & State Magazine.

6 THE COURT: Who puts that out, the state?

7 PROSPECTIVE JUROR: Yeah. it's a small,
8 little company.

9 THE COURT: And Ms. Vincent?

10 PROSPECTIVE JUROR: Single.

11 THE COURT: Your occupation?

12 PROSPECTIVE JUROR: Assistant manager for
13 membership ticketing at a theatre.

14 THE COURT: What kind of theatre?

15 PROSPECTIVE JUROR: Off Broadway theatre.

16 THE COURT: Off Broadway.

17 And Mr. Volcy?

18 PROSPECTIVE JUROR: Married.

19 THE COURT: Occupation?

20 PROSPECTIVE JUROR: Cab driver.

21 THE COURT: Truck driver, you said?

22 PROSPECTIVE JUROR: Cab driver.

23 THE COURT: Cab driver?

24 PROSPECTIVE JUROR: Cab driver.

25 THE COURT: Cab driver, I'm sorry.

Voir Dire

1 And your spouse, she work?

2 PROSPECTIVE JUROR: She's -- we be separated
3 right now.

4 THE COURT: Oh, you're separated?

5 PROSPECTIVE JUROR: Yeah, separated.

6 THE COURT: All right.

7 Mr. Martinez?

8 PROSPECTIVE JUROR: Single, and server at a
9 restaurant.

10 THE COURT: And Mr. Jenkins?

11 PROSPECTIVE JUROR: I'm single and I do direct
12 care work.

13 THE COURT: What was that?

14 PROSPECTIVE JUROR: Like with adults with
15 disabilities.

16 THE COURT: Ms. Didino.

17 PROSPECTIVE JUROR: I'm single and I have a
18 kickboxing gym in Brooklyn and opening up a second
19 one.

20 THE COURT: You own a kickboxing gym, okay.

21 And Ms. Webster?

22 PROSPECTIVE JUROR: Separated. I am a
23 controller for a hotel.

24 THE COURT: Is that in Manhattan?

25 PROSPECTIVE JUROR: Yes.

Voir Dire

1 THE COURT: And Mr. Dolan?

2 PROSPECTIVE JUROR: Divorced.

3 Retired structural ironworker.

4 THE COURT: All right.

5 First row, any of you ladies and gentlemen
6 ever serve on a jury before, at a criminal or civil
7 trial, first row?

8 Mr. Martinez -- I mean, I'm sorry, Santiago.

9 PROSPECTIVE JUROR: Yes.

10 THE COURT: What kind of jury were you on?

11 PROSPECTIVE JUROR: It was a criminal.

12 THE COURT: And what was the subject matter?
13 What was the crime?

14 PROSPECTIVE JUROR: It was stabbing of an
15 employee in McDonald's.

16 THE COURT: Without telling me what the
17 verdict was, was there a verdict?

18 PROSPECTIVE JUROR: Yes, there was.

19 THE COURT: How long ago was this?

20 PROSPECTIVE JUROR: About ten years ago.

21 THE COURT: Same question for those in the
22 rear, any of you ladies and gentlemen ever sit on a
23 jury, be it a civil or a criminal matter?

24 No, okay.

25 First row, any of you ladies and gentlemen

Voir Dire

1 ever been the victim of a crime?

2 It could have been a pocketbook snatch or it
3 could have been a chain snatch, which is not the most
4 serious crime, or murder or rape.

5 When I say "victim," I mean if you have been
6 the victim or someone close to you, doesn't have to
7 necessarily be you.

8 Anyone, first row?

9 None of you? No one in your families or close
10 to you, friends?

11 Yes, Ms. Hunter?

12 PROSPECTIVE JUROR: I was the victim of rape.

13 THE COURT: Sorry to hear that.

14 How long ago was that, ma'am?

15 PROSPECTIVE JUROR: Last year December.

16 THE COURT: Huh?

17 PROSPECTIVE JUROR: Last year December.

18 THE COURT: Last year summer?

19 PROSPECTIVE JUROR: December.

20 THE COURT: And was the perpetrator ever
21 apprehended?

22 PROSPECTIVE JUROR: No.

23 THE COURT: Was this reported to the police?

24 PROSPECTIVE JUROR: Yes.

25 THE COURT: Were you satisfied or dissatisfied

Voir Dire

1 with the police?

2 PROSPECTIVE JUROR: Nothing happened, so it's
3 like whatever.

4 THE COURT: Do you hold --

5 Do you have any bad feelings with respect to
6 the police or any authorities?

7 PROSPECTIVE JUROR: Not really.

8 THE COURT: Okay.

9 Anyone else?

10 Ms. Lackan?

11 PROSPECTIVE JUROR: Yeah, my daughter was a
12 victim of rape.

13 THE COURT: What happened to her?

14 PROSPECTIVE JUROR: She was raped.

15 THE COURT: Sorry to hear that.

16 How long ago was that, ma'am?

17 PROSPECTIVE JUROR: Probably about twelve
18 years ago.

19 THE COURT: Twelve years ago.

20 Was the perpetrator ever apprehended, the
21 person?

22 PROSPECTIVE JUROR: It didn't occur here, it
23 occurred elsewhere.

24 THE COURT: Where?

25 PROSPECTIVE JUROR: Cayman Islands.

Voir Dire

1 THE COURT: All right.

2 Was that person ever apprehended, you know,
3 arrested?

4 PROSPECTIVE JUROR: No.

5 THE COURT: No, okay.

6 Anyone else, first row?

7 Second row, same question.

8 Ms. Webster?

9 PROSPECTIVE JUROR: It was a long time ago, I
10 was robbed at knifepoint.

11 THE COURT: You were robbed at knifepoint?

12 PROSPECTIVE JUROR: Yeah.

13 THE COURT: Was that person ever apprehended?

14 PROSPECTIVE JUROR: No.

15 THE COURT: Anyone else?

16 Ms. Vincent?

17 PROSPECTIVE JUROR: I was robbed.

18 THE COURT: Was a weapon involved?

19 PROSPECTIVE JUROR: Yes, a gun.

20 THE COURT: Did you report it?

21 PROSPECTIVE JUROR: Yes.

22 THE COURT: One person?

23 PROSPECTIVE JUROR: One, yes.

24 THE COURT: Was the perpetrator ever
25 apprehended?

Voir Dire

1 PROSPECTIVE JUROR: No.

2 THE COURT: Do you have any feelings with
3 regard to the way the police handled it?

4 PROSPECTIVE JUROR: No, they handled it very
5 well.

6 THE COURT: Who else?

7 Mr. Sutton?

8 PROSPECTIVE JUROR: My cousin was shot.

9 THE COURT: Cousin was shot?

10 PROSPECTIVE JUROR: Yes.

11 THE COURT: Was that person ever arrested?

12 PROSPECTIVE JUROR: No.

13 THE COURT: Was that in Brooklyn?

14 PROSPECTIVE JUROR: Yes.

15 THE COURT: Did you report that to the police?

16 Was that reported to the police?

17 PROSPECTIVE JUROR: It was reported.

18 THE COURT: Did he survive the shooting?

19 PROSPECTIVE JUROR: No.

20 THE COURT: Sorry.

21 Who else? Anyone else?

22 All right.

23 First row, any of you ladies and gentlemen
24 ever accused of, arrested for, or convicted of a crime,
25 or someone close to you?

Voir Dire

1 First row.

2 PROSPECTIVE JUROR: My brother.

3 THE COURT: Ms. Ramnath?

4 PROSPECTIVE JUROR: Yes, my brother and my
5 sister.

6 THE COURT: What happened?

7 PROSPECTIVE JUROR: One for drugs and the
8 other for stealing. They were deported.

9 THE COURT: So your brother was arrested for
10 what, drugs?

11 PROSPECTIVE JUROR: Drugs.

12 THE COURT: And your sister for stealing?

13 PROSPECTIVE JUROR: Yes. Also drugs.

14 THE COURT: And she was deported also?

15 PROSPECTIVE JUROR: Both deported.

16 THE COURT: Both deported?

17 PROSPECTIVE JUROR: Yes.

18 THE COURT: Where are you from, again?

19 PROSPECTIVE JUROR: Trinidad.

20 THE COURT: Anyone else?

21 PROSPECTIVE JUROR: Yes.

22 THE COURT: Yes? That is Mr. Lynch?

23 PROSPECTIVE JUROR: Lynch.

24 I had a DWI twelve years ago.

25 THE COURT: Excuse me?

Voir Dire

1 PROSPECTIVE JUROR: I had a DWI twelve years
2 ago.

3 THE COURT: Okay.

4 Did they give you a program?

5 PROSPECTIVE JUROR: Yeah.

6 THE COURT: Do you hold that against the
7 police or the People because you were arrested for a
8 DWI?

9 PROSPECTIVE JUROR: No.

10 THE COURT: Anyone else, first row?

11 Second row?

12 Mr. Volcy?

13 PROSPECTIVE JUROR: Yeah, my house was robbed.

14 THE COURT: What?

15 PROSPECTIVE JUROR: I got robbed in my house.

16 THE COURT: They robbed your house?

17 PROSPECTIVE JUROR: Yeah.

18 THE COURT: You mean your house was
19 burglarized?

20 PROSPECTIVE JUROR: Yeah.

21 THE COURT: Were you home at the time?

22 PROSPECTIVE JUROR: Yeah -- no, I wasn't.

23 THE COURT: All right.

24 Did you report it to the police?

25 PROSPECTIVE JUROR: I did.

Voir Dire

1 THE COURT: Okay.

2 Anyone else?

3 Mr. Martinez?

4 PROSPECTIVE JUROR: I was arrested, I think
5 like three, four years ago for graffiti.

6 THE COURT: For what, graffiti?

7 PROSPECTIVE JUROR: Yeah.

8 THE COURT: They give you an ACD?

9 PROSPECTIVE JUROR: No, I was reprimanded and
10 I was let go.

11 THE COURT: You were what?

12 PROSPECTIVE JUROR: I was reprimanded and let
13 go.

14 THE COURT: You paid a fine?

15 PROSPECTIVE JUROR: Yes.

16 THE COURT: Who else?

17 Mr. Sutton?

18 PROSPECTIVE JUROR: My cousin was arrested.

19 THE COURT: Cousin was arrested.

20 Your cousin was arrested for what?

21 PROSPECTIVE JUROR: I believe it was gang
22 related.

23 MS. CHU: I can't hear.

24 THE COURT: He was arrested.

25 PROSPECTIVE JUROR: I don't know the exact

Voir Dire

1 details but I believe it was gang related.

2 THE COURT: Oh, gang related.

3 Did he do any time? Do you know?

4 PROSPECTIVE JUROR: He went to Rikers.

5 THE COURT: He went to Rikers.

6 Did he go to trial or do you know what

7 happened to the case?

8 PROSPECTIVE JUROR: No, I'm not sure.

9 THE COURT: Are you close to your cousin?

10 PROSPECTIVE JUROR: He's the one that was
11 shot.

12 THE COURT: He's the same one that was shot
13 and died, okay.

14 Anybody else?

15 All right.

16 Any of you ladies and gentlemen related to,
17 friendly with, associated with, interact with any law
18 enforcement agents or attorneys?

19 First row?

20 That's Mr. Derziotis?

21 PROSPECTIVE JUROR: My brother-in-law's an
22 attorney and --

23 THE COURT: What kind of law does he practice?

24 PROSPECTIVE JUROR: Personal injury.

25 And I have a lot of friends that are in the

Voir Dire

1 police force.

2 THE COURT: You have a lot of friends in the
3 police force?

4 PROSPECTIVE JUROR: Correct.

5 My other brother-in-law is also.

6 THE COURT: Your who?

7 PROSPECTIVE JUROR: My brother-in-law is in
8 the police force also.

9 THE COURT: Do you know where he is
10 stationed?

11 PROSPECTIVE JUROR: 62nd Precinct.

12 THE COURT: Anyone else?

13 Ms. Joseph?

14 PROSPECTIVE JUROR: Yes.

15 I have a cousin that's a lawyer for criminal
16 justice and also a cousin that's a judge for criminal as
17 well.

18 THE COURT: Your cousin is a defense lawyer?

19 PROSPECTIVE JUROR: Yes.

20 THE COURT: And where's he practice?

21 PROSPECTIVE JUROR: It's a she.

22 THE COURT: She, I'm sorry.

23 PROSPECTIVE JUROR: North Carolina.

24 THE COURT: And you have another cousin who's
25 a judge?

Voir Dire

1 PROSPECTIVE JUROR: Yeah. He's male.

2 THE COURT: Where?

3 PROSPECTIVE JUROR: North Carolina also.

4 THE COURT: Who else raised their hand?

5 Ms. Valenzuela?

6 PROSPECTIVE JUROR: My uncle's a detective.

7 THE COURT: Where?

8 PROSPECTIVE JUROR: The 72nd Precinct, I

9 believe.

10 THE COURT: 72nd Precinct? In Manhattan?

11 PROSPECTIVE JUROR: Yeah.

12 THE COURT: Who else raised their hand in the

13 rear?

14 That's Ms. Walker?

15 PROSPECTIVE JUROR: My uncle's a detective

16 sergeant in Suffolk County.

17 THE COURT: And that's Mr. Smargiassi?

18 PROSPECTIVE JUROR: My brother and

19 brother-in-law are attorneys, my father-in-law is a

20 retired attorney.

21 THE COURT: Your brother and your

22 brother-in-law are attorneys? What kind of law do they

23 practice?

24 PROSPECTIVE JUROR: My brother is mostly

25 matrimonial and commercial and my brother-in-law I

Voir Dire

1 believe is labor, labor.

2 THE COURT: Your father is retired?

3 PROSPECTIVE JUROR: Father-in-law. He did
4 lead cases.

5 THE COURT: What kind of cases?

6 PROSPECTIVE JUROR: Lead, lead poisoning.

7 THE COURT: Personal injury.

8 He is retired, though?

9 PROSPECTIVE JUROR: Yes.

10 THE COURT: Anyone else?

11 Mr. Martinez?

12 PROSPECTIVE JUROR: My aunt is an immigration
13 lawyer in Pennsylvania.

14 THE COURT: Your mother?

15 PROSPECTIVE JUROR: Aunt.

16 THE COURT: Your aunt.

17 Who else? Anyone else?

18 Okay.

19 Ms. Ramnath, can you be fair and impartial in
20 this case?

21 PROSPECTIVE JUROR: Yes.

22 THE COURT: Your answer, yes or no?

23 PROSPECTIVE JUROR: Yes.

24 THE COURT: Thank you.

25 Mr. Derziotis?

Voir Dire

1 PROSPECTIVE JUROR: Yes.
2 THE COURT: Ms. Lackan?
3 PROSPECTIVE JUROR: Yes.
4 THE COURT: Ms. Williams?
5 PROSPECTIVE JUROR: Yes.
6 THE COURT: Ms. Joseph?
7 PROSPECTIVE JUROR: Yes.
8 THE COURT: Ms. Hunter?
9 PROSPECTIVE JUROR: Yes.
10 THE COURT: Ms. Valenzuela?
11 PROSPECTIVE JUROR: Yes.
12 THE COURT: Mr. Duncan?
13 PROSPECTIVE JUROR: Yes.
14 THE COURT: And Mr. Lynch?
15 PROSPECTIVE JUROR: Yes.
16 THE COURT: Mr. Martinez -- Mr. Santiago?
17 PROSPECTIVE JUROR: Yes.
18 THE COURT: Ms. Walker?
19 PROSPECTIVE JUROR: Yes.
20 THE COURT: Mr. Smargiassi?
21 PROSPECTIVE JUROR: Yes.
22 THE COURT: Mr. Sutton?
23 PROSPECTIVE JUROR: Yes.
24 THE COURT: Ms. Vincent?
25 PROSPECTIVE JUROR: Yes.

Voir Dire

1 THE COURT: Mr. Volcy?

2 PROSPECTIVE JUROR: Yes.

3 THE COURT: Mr. Martinez?

4 PROSPECTIVE JUROR: Yes.

5 THE COURT: Mr. Jenkins?

6 PROSPECTIVE JUROR: Yes.

7 THE COURT: Ms. Didino?

8 PROSPECTIVE JUROR: Yes.

9 THE COURT: Ms. Webster?

10 PROSPECTIVE JUROR: Yes.

11 THE COURT: And Mr. Dolan?

12 PROSPECTIVE JUROR: Yes.

13 THE COURT: All right.

14 Since it's almost the luncheon hour, we are
15 going to adjourn till 2:00 P.M. You are not to
16 discuss the case amongst yourselves or with anyone
17 else. You are not to visit the place where the alleged
18 crimes occurred. You are not to have any contact with
19 any of the parties involved in this matter, including
20 the Court. If you see us, do not acknowledge us, just
21 pass us by. We know the drill. It may be uncomfortable
22 for you, but don't worry about it, I will explain later
23 on why you are not to have any contact, even eye
24 contact. You may see us, just pass us by, all right.

25 And you are not to resort to utilizing any of

Voir Dire

1 your digital devices, electronic devices, for the
2 purpose of obtaining any information about this matter
3 or contacting anyone about this matter, okay.

4 So, those of you in the jury --

5 And that applies to you ladies and gentlemen
6 who are out in the audience.

7 So those who are in the jury box will be
8 excused first and then the rest will follow.

9 Return back at two o'clock in front of the
10 door, remain out there until you're called in by a Court
11 Officer. Have a very good lunch. Take all your
12 belongings with you.

13 THE CLERK: Sir. Sir, have a seat.

14 SERGEANT: Exit on your right.

15 (Whereupon, the panel of prospective jurors
16 exited the courtroom.)

17 THE COURT: All right, those in the audience
18 may follow.

19 Two o'clock.

20 (Whereupon, the panel of prospective jurors
21 exited the courtroom.)

22 THE COURT: All right, 2:00. The Court's
23 adjourned.

24 (Whereupon, a lunch recess was held.)

25 * * *

Voir Dire

1 A F T E R N O O N S E S S I O N

2 * * *

3 THE CLERK: Case back on trial continues. All
4 parties are present. Defendant is present with her
5 attorney.

6 THE COURT: Is your assistant here?

7 MR. WALENSKY: Yes. I don't know where he
8 just went. He's coming.

9 THE COURT: He's coming back.

10 Let's get those in the box first and then the
11 rest.

12 (Whereupon, there was a brief pause in the
13 proceedings.)

14 COURT OFFICER: Ready for the panel, your
15 Honor?

16 THE COURT: Yes.

17 COURT OFFICER: Panel entering.

18 (Whereupon, the panel of prospective jurors
19 entered the courtroom.)

20 COURT OFFICER: Make sure your electronic
21 phones and electronic devices are turned off, please.

22 THE COURT: Call the case in.

23 THE CLERK: All right.

24 Case on trial continues. All parties present.

25 THE COURT: All right, Ms. Chu.

Voir Dire - People/Ms. Chu

1 MS. CHU: Thank you.

2 THE COURT: You may inquire.

3 MS. CHU: Good afternoon, ladies and
4 gentlemen.

5 As you know, my name is Phyllis Chu.

6 Like the Judge told you, I am going to be the
7 Assistant District Attorney that is going to be in
8 charge in this case. Should you all be selected as
9 jurors for this matter, there's some things I wanted to
10 kind of talk to you about. Before I talk about them, I
11 just want you to understand that this process is not
12 about saying what I might want to hear or, you know,
13 anything like that. The only answer that you can give
14 is the truth, okay, 'cause please don't try and say
15 something that you think I want to hear or you think the
16 other guy wants to hear, just tell us the truth because
17 this is the only time we really get to interact with you
18 at this point.

19 So, one of the things I wanted to ask you
20 about, I know the Judge was asking you a number of
21 questions before lunch about if anybody was the victim
22 of a crime or anybody close to them had been arrested.
23 I know a lot of you raised your hands.

24 Is there anyone here, of the people that
25 have that in their past, that think those experiences

Voir Dire - People/Ms. Chu

1 are going to affect your ability to be fair in this
2 trial?

3 Everybody okay with that?

4 Do you understand what I'm asking you?

5 Yes?

6 Everybody's good?

7 All right.

8 Whatever your experiences are, that you are
9 not going to let it affect you in deciding what the
10 evidence is in this case.

11 Now, talking about evidence, the Judge said in
12 most trials the majority of the evidence that you hear
13 is the spoken word, meaning someone gets up on the stand
14 and says on this particular day I did this, I saw this,
15 and what happened, okay.

16 Now, can everyone understand that the spoken
17 word is evidence, just like if you can hold it in your
18 hand, that someone's testimony is the same as if it were
19 physical evidence, it is considered evidence? Can you
20 all appreciate that and accept that premise?

21 Okay.

22 Now, I know that at least one of you guys
23 watches some sort of crime show on TV.

24 PROSPECTIVE JUROR: Yeah, Law & Order.

25 THE COURT: Law & Order.

Voir Dire - People/Ms. Chu

1 In these crime shows they never show you this
2 part. They never show you about the jury selection.
3 They never show it because it's a very tedious process,
4 but it's very important.

5 And what you're going to see in this case is
6 real life, meaning you are not going to have actors get
7 up there and say, oh, on this particular day I saw this.
8 We are not going to have paid actors, nobody's going to
9 be looking at a script, reading from a script. You're
10 certainly not going to have any commercials.

11 Can you all appreciate that it's not going to
12 be like TV, this is real life?

13 Can you all understand that?

14 Now, I am really bad with names but I think
15 your name is Duncan.

16 Mr. Duncan, how do you feel? You watch those
17 crime shows, --

18 PROSPECTIVE JUROR: Yes, I do.

19 MS. CHU: -- you know, where they see
20 something with the naked eye across the room in the
21 carpet fibers, something different there, right? They
22 are pretty good at that sometimes. That's not going to
23 happen here, all right.

24 In fact, a lot of the evidence that you are
25 going to hear with regard to the defendant's guilt is

Voir Dire - People/Ms. Chu

1 going to come from words that she said, meaning she made
2 statements.

3 Now, is there anyone here that thinks that
4 because there was no eyewitness to what actually
5 happened to the victim in this case, it was just her and
6 him, okay, so much of the evidence that you're going to
7 hear has to do with statements that she makes to both
8 the police and to other people, now, how many of you --
9 let me ask you, can you accept the premise that if
10 someone is suspected of a crime, that they might want to
11 talk to the police?

12 Can you accept that?

13 PROSPECTIVE JUROR: No.

14 MS. CHU: Who said "no?"

15 PROSPECTIVE JUROR: Me.

16 MS. CHU: Ms. Webster, why do you say that?

17 PROSPECTIVE JUROR: Whether they might want to
18 talk to the police, I don't know that -- I find it
19 difficult to believe that someone suspected of a crime,
20 you're just going --

21 MS. CHU: That they'll want to talk?

22 PROSPECTIVE JUROR: Yeah.

23 MS. CHU: I'm sorry, Mr. Dolan, you raised
24 your hand?

25 PROSPECTIVE JUROR: Of course. Sometimes they

Voir Dire - People/Ms. Chu

1 might tell their story first.

2 MS. CHU: You think --

3 PROSPECTIVE JUROR: Of course it's possible.

4 MS. CHU: My question only to you, Ms.

5 Webster, is just that, is that going to prevent you from
6 listening to the evidence, you are going to say, you
7 know, what, I wouldn't have talked to the cops, I'm not
8 going to believe anything the cops say, if she made a
9 statement?

10 PROSPECTIVE JUROR: You have to take
11 everything based on what's there, the reality in front
12 of you. I don't think that that would -- I don't think
13 that that would -- I personally don't think it's going
14 to affect my judgment because my judgment is just based
15 on the facts.

16 MS. CHU: You won't let your opinion about
17 whether or not you would do something affect what might
18 have happened?

19 PROSPECTIVE JUROR: I don't think so. I mean,
20 I don't plan to, let's put it that way.

21 MS. CHU: If somebody is suspected of a crime
22 and talking to the police, do you think it's a
23 possibility they might say what Mr. Dolan says, you want
24 to speak first and say things in the best light for you?
25 You think that's a possibility, if someone is suspected

Voir Dire - People/Ms. Chu

1 of a crime and speaks to the police?

2 They might say, oh, it happened this way,
3 because it sounds better? Do you think that's a
4 possibility? Yes?

5 Anybody here think it's not a possibility?

6 Do you think that sometimes someone, if they
7 are talking to the police and they know they are
8 suspected of a crime, they might say things, some things
9 are true, some things not so true, right, put the best
10 foot forward? Do you think that's a possibility?

11 Yes?

12 Okay.

13 Now, let me ask you this. What if the
14 statement was made to someone that's not the police, do
15 you think that that would affect your ability to --

16 MR. WALENSKY: Objection, your Honor.

17 Can we approach?

18 THE COURT: Come on up.

19 (Whereupon, a sidebar conference was held off
20 the record.)

21 THE COURT: Objection sustained. We'll go on
22 to another subject.

23 MS. CHU: So the next thing I want to ask you
24 guys, that if you hear that kind of evidence, meaning
25 that the defendant made certain statements to various

Voir Dire - People/Ms. Chu

1 people, do you think you are the kind of people that can
2 listen to what they tell you and make a decision as to
3 whether that statement that the defendant made --

4 MR. WALENSKY: Objection. This was just
5 sustained.

6 THE COURT: Ladies and gentlemen, whatever is
7 stated is in evidence, you will have to evaluate it, all
8 right. That's going to be your job.

9 Go on.

10 MS. CHU: You understand everything I am
11 talking to you about now, nothing -- none of the
12 evidence I am talking about, scenarios, these are like
13 hypotheticals. If you heard from witnesses who tell you
14 that the defendant said something, do you think that you
15 can base your decision on whether or not what they're
16 telling you is reliable, whether that statement is
17 reliable by looking at everything, meaning that you
18 don't have to just look at one person's testimony in a
19 bubble, right?

20 You can use their testimony and compare and
21 contrast it to other evidence that you are going to hear
22 in this case. Do you think that you are the kind of
23 people that can do that, that can say, you know what, I
24 heard evidence that this person said this but I also
25 heard evidence that, well, this part can be true, but

Voir Dire - People/Ms. Chu

1 this part's definitely not true, this part's true, this
2 part definitely can't be true?

3 Will you look at everything as a whole before
4 you make a decision as to whether or not you can find
5 that to be reliable or not? Can you do that?

6 Now, we talked about that C.S.I. person who
7 spots something from across the way. You will have kind
8 of scientific evidence but you're not going to have a
9 videotape of this crime, okay, you are going to have
10 some DNA because there was blood at the scene. You're
11 not going to have -- in fact, the weapon was never
12 recovered so you are not going to actually see the
13 weapon that was used against the victim, but you'll hear
14 about his injuries from other sources, like a medical
15 examiner, like people who saw the wounds that were
16 inflicted on the victim.

17 So does anyone here think you are the kind of
18 person that, you know what, I need to have a videotape,
19 I need to have solid evidence with my own eyes that this
20 person did this?

21 Does anyone think you're the kind of juror
22 that requires that kind of information? Because I am
23 telling you right up front we don't have that. We don't
24 have a videotape, we don't even have the knife.

25 Can anyone here let me know one way or the

Voir Dire - People/Ms. Chu

1 other whether or not you're okay with that?

2 PROSPECTIVE JUROR: What do you have so --

3 MS. CHU: Other stuff I have.

4 You're going to hear from witnesses who will
5 tell you about what happened before, sort of during and
6 then after.

7 PROSPECTIVE JUROR: I am confused. You said
8 there was no witnesses.

9 MS. CHU: I told you that most of the evidence
10 that you are going to hear that points to the
11 defendant's guilt is coming from the defendant's own
12 mouth.

13 PROSPECTIVE JUROR: How do we know that the
14 witnesses that are speaking against her are even
15 credible?

16 THE COURT: That is your job.

17 PROSPECTIVE JUROR: Most -- most people --

18 THE COURT: Excuse me. Don't say anything.

19 I will tell the jury what to say and not to
20 say and what the law is.

21 You are going to have to evaluate what people
22 say, that's what your job is, and it's clear as day.
23 That's evidence. That's all. That is what your job
24 is.

25 Go ahead.

Voir Dire - People/Ms. Chu

1 MS. CHU: Mr. Jenkins, you work, you said, for
2 direct care, right?

3 PROSPECTIVE JUROR: Uh-huh.

4 MS. CHU: In your job you decide whether or
5 not someone talking to you is telling you the truth?

6 PROSPECTIVE JUROR: Yes, sometimes.

7 MS. CHU: In your everyday life, I would
8 imagine, that most of you have to do that on a daily
9 basis multiple times, all right. You guys all came here
10 with the unique benefit of having life experiences,
11 right. You all have to make those decisions every day.
12 We are just asking you to take that common sense that
13 you have, your life experiences that you have and use
14 that to decide whether or not a witness who testifies
15 before you is telling the truth, if what they say makes
16 sense in light of what you -- everything else you heard,
17 okay, then for you to say, you know, I don't believe
18 they are telling the truth, or they're mistaken. I am
19 not asking you to accept whatever anybody says is the
20 truth. You have to determine on your own whether or not
21 you believe them.

22 Do you understand the difference?

23 PROSPECTIVE JUROR: Uh-huh.

24 MS. CHU: Are you okay with that?

25 PROSPECTIVE JUROR: A --

Voir Dire - People/Ms. Chu

1 MS. CHU: You look --

2 PROSPECTIVE JUROR: You say, like, if I do
3 that at my job, but like the most thing might be, yo,
4 somebody ate somebody's sandwich, but the aluminium foil
5 is on his desk, it's like you're guilty.

6 MS. CHU: I am glad you brought that up.

7 You understand that your job is not to
8 consider anything about punishment or have any type of
9 sympathies in this case?

10 PROSPECTIVE JUROR: I know.

11 MS. CHU: You're just deciding what happened.
12 You are not passing judgment on anyone.

13 PROSPECTIVE JUROR: No, no.

14 MS. CHU: All you're doing is, you're deciding
15 this is what I think happened based on all the evidence
16 that I have.

17 Do you think you can do that?

18 PROSPECTIVE JUROR: Sure.

19 MS. CHU: Like --

20 PROSPECTIVE JUROR: Fine. I wanted to clear
21 that up, you know.

22 MS. CHU: All right.

23 The next thing I want to talk to you about is
24 police witnesses.

25 We are going to have a number of police

Voir Dire - People/Ms. Chu

1 witnesses that testify before you and, you know, you had
2 to have lived under a rock the last ten years not to see
3 all kinds of stuff in the paper about police officers
4 doing wrongdoing and then something like page 40 will be
5 about something that they did right.

6 You understand, there's thirty, forty thousand
7 police officers in New York City alone. Do you think
8 that it's possible that most of them do try to do their
9 best, some of them better than others, but they are all
10 individuals like you and I?

11 Whether or not you're a direct care worker or
12 you're a nurse, everybody is just trying to do what they
13 do the best that they can do, right, and they put their
14 pants on the same way we do, right, one leg at a time.

15 So, can you promise me that if you hear police
16 officers that testify in this case, that you're not
17 going to say automatically, I can't believe anything
18 they say? But I also don't want you to say, you know
19 what, because they're police officers, they never lie.
20 I don't want that either. I want you to wait, wait and
21 listen to what they have to say before you make your
22 judgment as to whether or not they're telling you the
23 truth.

24 Can you all promise me that you can do that?

25 PROSPECTIVE JUROR: Yes.

Voir Dire - People/Ms. Chu

1 MS. CHU: All right.

2 Now, the last thing I want to talk about has
3 to do with sympathy. And I told you, I said sympathy
4 really has no place in what you're deciding in this
5 case.

6 Can you all understand that?

7 Someone is dead, there's some sympathy, it's
8 natural to feel that way. We wouldn't be human if we
9 don't feel that way. In fact, some of you might have
10 sympathy for the defendant. But do you understand, you
11 cannot allow that sympathy, whether you have it or not,
12 to affect what you decide in this case if you're
13 selected as a juror?

14 Ms. Joseph, right?

15 PROSPECTIVE JUROR: Uh-huh.

16 MS. CHU: And let's say you're in the jury
17 room, you heard all the evidence, and you believe that
18 I've proved my case that the defendant is guilty beyond
19 a reasonable doubt, are you the kind of person that is
20 going say, you know what, I know Ms. Chu proved her
21 case, she proved it with the evidence beyond a
22 reasonable doubt and I believe it, that that proves that
23 the defendant is guilty, are you going to go back and
24 say, you know, I just -- I feel bad for her and I can't
25 do it, I can't convict?

Voir Dire - People/Ms. Chu

1 Can you understand what I'm getting at here?

2 I want to know now because you understand how
3 it would be unfortunate for us to later, after you're
4 selected, whether or not that might affect your ability
5 to decide this case only on the evidence and that's it?

6 You'd be okay with that?

7 PROSPECTIVE JUROR: Yeah.

8 MS. CHU: Do you think you might have some
9 hesitation?

10 PROSPECTIVE JUROR: No.

11 MS. CHU: Do you all promise me that if you
12 have any sympathies one way or the other, that you not
13 allow that to affect your decision in this case about
14 what the evidence is?

15 Can you all promise me that?

16 You promise to hold me to my burden of proving
17 what the defendant -- all the things that she's supposed
18 to have done? You promise to hold me to that burden?

19 And the same on the flip side, there's certain
20 things I don't have to prove, like I don't have to prove
21 what the weather was like for that period of time, I
22 don't have to prove who won the lottery for four, five
23 weeks, all right.

24 Can you all promise me, also, that you are not
25 going to hold me to a higher standard or to more of what

Voir Dire - Defendant/Mr. Walensky

1 the Judge wants me to prove?

2 He says she has to prove four things, you are
3 not going to say I want that fifth one?

4 Is everybody okay with that?

5 Yes?

6 Anybody have any questions for me before I sit
7 down?

8 Okay, thank you very much.

9 THE COURT: Okay, Mr. Walensky.

10 MR. WALENSKY: Thank you.

11 Good afternoon, ladies and gentlemen.

12 My name is David Walensky and I'm the attorney
13 for Ms. Wisdom, who's the accused. Mr. Povill is going
14 to be talking to you at some point.

15 It's interesting that we have this system here
16 where we will take great pains to say a person is
17 innocent until there is a guilty verdict. And if you
18 notice, juries are asked to provide a verdict of guilty
19 or not guilty, not guilty or innocent. This is a great
20 mistake people make.

21 Now, I have -- we'll get back to that. But I
22 have fifteen minutes to do an in-depth psychological
23 profile of twenty of you. I'm not that smart or
24 perceptive, so we really do rely upon your honesty
25 because this is the one time in your life -- you might

Voir Dire - Defendant/Mr. Walensky

1 have another, but it's a certainty that you have no
2 bosses here over you. So you can have prejudices, lay
3 them aside, you can recognize I don't like this, I don't
4 like that, whatever, lay it aside. This is judged
5 solely by evidence.

6 Now, Ms. Chu and I will both have a chance to
7 open. The People are required to tell you what they
8 have to prove and she will have an opening and tell you
9 how she will prove it. Voir dire is not the place --
10 that is what we call this, jury selection -- to tell you
11 about the case so that you don't have preconceptions
12 before going in.

13 What we're interested in is people who have --
14 who can look at the evidence and listen to the
15 instructions of the Judge, of the Court, and decide
16 based on the evidence. We talk about some of the facts.

17 You have preconceived notions, would you agree
18 that that could be true, Ms. Ramnath?

19 PROSPECTIVE JUROR: Yes.

20 MR. WALENSKY: So we really don't want that.

21 Now, Mr. Duncan?

22 PROSPECTIVE JUROR: Yes.

23 MR. WALENSKY: People want to hear -- the
24 Judge's told you my client doesn't have to testify,
25 but it's normal for people to want to hear someone

Voir Dire - Defendant/Mr. Walensky

1 testify.

2 PROSPECTIVE JUROR: Yes.

3 MR. WALENSKY: Because you want to hear both
4 sides.

5 PROSPECTIVE JUROR: Yes.

6 MR. WALENSKY: Do you know why we don't do
7 that, Ms. Williams?

8 One reason is, if that were the case, then we
9 don't have a system where the People have to prove their
10 case. It's like let's see what you have, let's hear
11 what you have to say. This is a one-sided situation.

12 Do you understand, Mr. Martinez, that it's
13 only about the People, Ms. Chu's ability to prove her
14 case beyond a reasonable doubt?

15 PROSPECTIVE JUROR: Yes.

16 MR. WALENSKY: I can sit there and take a nap,
17 say to Josh, let's take a nap and let her go on with
18 this, if they don't prove their case, if they don't have
19 the required evidence, then you must say not guilty.
20 You agree with that Mr. Derziotis?

21 PROSPECTIVE JUROR: Yes.

22 MR. WALENSKY: Did I pronounce it correctly?

23 PROSPECTIVE JUROR: Close enough.

24 MR. WALENSKY: Now, Mr. Santiago, people
25 testify and you have to decide whether or not they're

Voir Dire - Defendant/Mr. Walensky

1 telling the truth. Sometimes people will tell the
2 entire truth, correct?

3 PROSPECTIVE JUROR: Correct.

4 MR. WALENSKY: Sometimes some of what they say
5 is true and some isn't, right?

6 PROSPECTIVE JUROR: Yes.

7 MR. WALENSKY: Sometimes they're not even
8 lying, necessarily, but they are making mistakes. Would
9 you agree with that, Mr. Smargiassi?

10 PROSPECTIVE JUROR: Yes.

11 MR. WALENSKY: And it's a matter of perception
12 also, right?

13 Now, things affect a person's perception,
14 would you agree with that, Ms. Joseph, that something
15 can affect somebody's perception, how you listen to
16 somebody, how --

17 PROSPECTIVE JUROR: Yes.

18 MR. WALENSKY: If you had a few drinks, you
19 might not be listening as much. If you smoked a little
20 crack, a person might be like a bit out of it, right?

21 Sometimes people lie because they have motives
22 to lie, right?

23 Now, I'm sure we all -- Mr. Dolan, you might
24 have had somebody -- I don't know -- you have somebody
25 and it's like, hey, you want to go get a beer? No, man,

Voir Dire - Defendant/Mr. Walensky

1 I have to do this, and you see them later. They just
2 lied to you, bold faced lie, not a big lie.

3 Ever have something like that happen?

4 PROSPECTIVE JUROR: You might mean I tell one
5 thing but they hear another.

6 MR. WALENSKY: Join the club. I think we've
7 all had that experience.

8 So the point is, sometimes they're important
9 reasons, sometimes they're unimportant reasons,
10 sometimes you talk about kids, kids will lie, they
11 don't -- often people don't, if they are not mature
12 enough, don't realize the implications if they lie.

13 Would you agree with that, Ms. Didino?

14 PROSPECTIVE JUROR: Sure.

15 MR. WALENSKY: Small lies can have great
16 consequences, can we agree? Then as to big lies, who's
17 to know? You are going to have to pick up what is true
18 and what is not true.

19 Now, we talked about policemen, police. When
20 we have police officers -- look, people don't like cops.
21 I do like cops. But when somebody mugs you, you call a
22 cop, right?

23 And police officers are human like anybody
24 else. Generally they solve crimes.

25 Would you agree with that, Ms. Lackan?

Voir Dire - Defendant/Mr. Walensky

1 PROSPECTIVE JUROR: Yes.

2 MR. WALENSKY: Sometimes they are wrong?

3 People can have a conclusion and an assumption and try
4 to make evidence fit that assumption?

5 Mr. Sutton, you agree with that?

6 PROSPECTIVE JUROR: Yes.

7 MR. WALENSKY: You have an assumption, you
8 have a theory, let's make the facts fit the theory.
9 That can happen, right?

10 And it does happen. We read about the
11 wrongful convictions all the time, not saying that
12 here --

13 MS. CHU: Objection.

14 THE COURT: Objection sustained.

15 MR. WALENSKY: All right.

16 Ms. Wisdom is charged with intentional murder.
17 The Judge will tell you the definition. He is the
18 arbiter of the law, and the law is written down as to
19 what are the elements. He will tell you, essentially,
20 it is intending to kill somebody, it's intentional
21 murder. He will tell you specifically.

22 Now, is there anyone here who would have
23 trouble bringing a verdict of guilty if the evidence
24 were there?

25 Now, the other side of that coin is, as I

Voir Dire - Defendant/Mr. Walensky

1 said, we don't have to prove anything, because one
2 example of it is the same, you're walking down the
3 street and somebody grabs you and tells the police
4 officers, that person robbed me, where you were alone,
5 you live alone, you were in bed asleep, you don't have
6 an explanation, you say I robbed you, you prove it,
7 physical evidence, testimonial evidence, however,
8 whatever legal evidence is necessary.

9 Can you accept that?

10 Do you understand why a person doesn't have to
11 testify and why you don't have to hear both sides?

12 Again, it's all one-sided.

13 Do you understand that, Ms. Valenzuela? No?

14 PROSPECTIVE JUROR: Yes.

15 MR. WALENSKY: That's another thing.

16 Yes?

17 PROSPECTIVE JUROR: The Judge is going to give
18 us the definition of murder?

19 MR. WALENSKY: He absolutely will.

20 PROSPECTIVE JUROR: Okay.

21 MR. WALENSKY: He will give you what the
22 definition is, but it's killing someone. He will tell
23 you the elements.

24 PROSPECTIVE JUROR: Murder is planned killing
25 someone?

Voir Dire - Defendant/Mr. Walensky

1 MR. WALENSKY: Don't --

2 THE COURT: No, no.

3 MR. WALENSKY: The Judge will give you the
4 absolute definition of how you will judge the particular
5 crime.

6 PROSPECTIVE JUROR: The reason why I'm asking,
7 because there was an article in the paper about some guy
8 who punched some guy after a soccer game and and the guy
9 died. Is that murder?

10 THE COURT: Let me just say something, all
11 right.

12 Whatever the attorneys say insofar as what the
13 law is, just disregard that, all right, because I will
14 ultimately tell you what the elements of the crime are,
15 all right. And whatever you've read about it in the
16 paper or might have read in the paper regarding murder
17 or something akin to murder, just forget about it, put
18 it out of your mind. You have to take what I say is the
19 law and that will come at the close of the case.

20 MR. WALENSKY: Every situation is different,
21 every fact situation.

22 As the Judge said, he will tell you, you know,
23 regarding this and whatever charges you must decide.
24 But, again, it's your ability to decide those.

25 Now, I was talking about the People's -- the

Voir Dire - Defendant/Mr. Walensky

1 necessity for the People to prove their case.

2 Now, Mr. Volcy --

3 PROSPECTIVE JUROR: Volcy (pronunciation).

4 MR. WALENSKY: I'm sorry, Volcy.

5 You will look at a case and you will hear the
6 evidence and you say, well, I think he did it -- I am
7 not even talking about he did or she did it -- but they
8 haven't proven their case, you'd have to say not guilty,
9 wouldn't you?

10 PROSPECTIVE JUROR: True.

11 MR. WALENSKY: You may not be satisfied with
12 this, you may not have an answer. This isn't about
13 answers, it's about your ability to look at the law and
14 make a decision as given under the law.

15 They might say, well, we think they did it, we
16 think they didn't prove their case, we have to say not
17 guilty.

18 I can't talk more, this isn't an opening, it's
19 not a summation, it's really to try to bring things out.
20 I have a couple of basic questions while they're here.
21 Anyone have a problem while they are serving? I don't
22 mean the jury service, I mean in terms of your own
23 living. I mean, these are considerations but, of
24 course, we know if selected you will do your duty. What
25 we don't want is, if -- I think I can speak for all of

Voir Dire - Defendant/Mr. Walensky

1 us, is that we don't want -- if you're in the room and
2 it's a couple of days, and it's up to the Judge how long
3 a jury sits, if they're having a problem with a
4 decision, but it's been two days, you're looking and
5 saying I gotta get back to work, I am losing time and
6 something else is playing on your mind, I need to know
7 because we don't want someone to say, okay, I'll go
8 whichever way the wind blows, it's eleven to one, you
9 are the one, regardless whether it's an acquittal or
10 conviction, this is a murder case, it should be that way
11 for every case, but you understand we need people who
12 are totally committed. You may not want to say it, but
13 if you are chosen, can you totally commit? I need to
14 know that.

15 It's not a contest. That's the thing, this
16 isn't a contest. And if you don't think you can do it,
17 I really need to know. I need to see the hands of the
18 people who can't.

19 Okay, thank you.

20 I am not even going to ask why, if you can't
21 do it. That is what I mean by honesty, because this is
22 the one time you don't have any bosses. Again I bring
23 that up.

24 So, there's no shame in it. If you are not
25 selected for this, you might be selected for something

Voir Dire - Defendant/Mr. Walensky

1 else or may very well be selected for this, but we need
2 to know.

3 So, ladies and gentlemen, do I have your
4 promise, if you're selected you will just do your very
5 best to listen to all the evidence, listen to the law
6 and judge this on the law and the evidence, not your
7 emotion, not your gut feeling, not what you feel is
8 right, but what the law requires?

9 Can you do that?

10 Thank you very, very much.

11 THE COURT: What's the problem?

12 PROSPECTIVE JUROR: I start school on the 1st.

13 THE COURT: What?

14 PROSPECTIVE JUROR: I start school on the 1st.

15 MR. WALENSKY: July 1st?

16 PROSPECTIVE JUROR: July 1st.

17 THE COURT: What school are you starting?

18 PROSPECTIVE JUROR: Manhattan GED plus.

19 THE COURT: I asked that before and you didn't
20 say anything.

21 PROSPECTIVE JUROR: The officer said I might
22 not be selected so it might not be an issue.

23 THE COURT: The officer said that to you?

24 PROSPECTIVE JUROR: Yeah, in the front.

25 THE COURT: Where?

Voir Dire - Defendant/Mr. Walensky

1 PROSPECTIVE JUROR: Outside, by the elevators.

2 THE COURT: All right.

3 I'm going to ask those jurors sitting in the
4 box to vacate their seats, step outside, remain there
5 until we call you back in. Don't disappear. Take all
6 of your belongings with you.

7 (Whereupon, the panel of prospective jurors
8 exited the courtroom.)

9 THE COURT: Those of you in the audience,
10 again, do not discuss the case amongst yourselves or
11 with anyone else. Remain outside until we call you in.
12 It will be a couple of minutes.

13 (Whereupon, the panel of prospective jurors
14 exited the courtroom.)

15 MS. CHU: What was the last question you asked
16 with juror number two and juror number sixteen said yes,
17 they couldn't do it?

18 MR. WALENSKY: I said, is there anyone who,
19 you know, if you're in there for a long time and
20 whatever, you are going to lose too much money, you are
21 going to -- to be afraid you are not getting paid and
22 whatever, basically that would influence what you're
23 doing in the jury room, they said yes.

24 MS. CHU: That was sixteen, Duncan.

25 MR. WALENSKY: That was two, and Duncan.

Voir Dire

1 (Whereupon, there was a brief pause in the
2 proceedings.)

3 THE COURT: All right.

4 First twelve for cause, Ms. Chu?

5 MS. CHU: I believe defense counsel asked Mr.
6 Derziotis --

7 THE COURT: Yes.

8 MS. CHU: -- whether or not they can separate,
9 whatever, he is not making money or whatever and keep
10 that separate from his deliberations.

11 MR. WALENSKY: I would agree, your Honor.

12 MS. CHU: He said he thought that would be a
13 factor.

14 I didn't actually hear what he said.

15 MR. WALENSKY: If I may.

16 I would agree with that because when I was
17 giving the scenario if you're going to be thinking about
18 something else, you can't spend anymore time, would that
19 cause you to maybe change your vote whichever way the
20 wind was blowing.

21 THE COURT: Call Mr. Derziotis. Call him in.

22 COURT OFFICER: Juror entering.

23 (Whereupon, the prospective juror entered the
24 courtroom.)

25 THE CLERK: State your name for the record,

Voir Dire

1 please.

2 PROSPECTIVE JUROR: Nicholas Derziotis.

3 THE CLERK: Thank you.

4 THE COURT: Mr. Derziotis?

5 PROSPECTIVE JUROR: Yes.

6 THE COURT: First of all, can you be fair and
7 impartial in this case?

8 PROSPECTIVE JUROR: Yes.

9 THE COURT: Is there anything that would
10 prevent you from being fair and impartial in this case?

11 PROSPECTIVE JUROR: No.

12 THE COURT: You sure?

13 PROSPECTIVE JUROR: Besides the fact that I
14 have a business to run.

15 THE COURT: I know that you have a business to
16 run. My question is, is that going to prevent you from
17 being fair and impartial?

18 PROSPECTIVE JUROR: No.

19 THE COURT: Are you going to rush to judgment
20 because of time considerations, in other words, change
21 your mind because --

22 PROSPECTIVE JUROR: It's not going to rush me
23 to judgment but I have -- I'm manager of a restaurant.

24 THE COURT: I understand that. My point is,
25 if --

Voir Dire

1 PROSPECTIVE JUROR: I'm not going to rush to
2 judgment, no.

3 THE COURT: Would you stick to your
4 convictions notwithstanding, you know, your concerns
5 about the money?

6 PROSPECTIVE JUROR: Absolutely.

7 THE COURT: Okay. Step out.

8 The cause is denied.

9 MR. WALENSKY: Note my objection, your Honor,
10 because during -- I know -- I don't believe he's been
11 rehabilitated because here, even though he said it's
12 difficult for a person to say, yeah, it wouldn't change
13 my mind, but my business is going to be in my mind, I
14 have a restaurant to run. So, he is speaking out of
15 both sides of his mouth.

16 I am essentially saying, out of caution, I
17 think he should be excluded at this point.

18 THE COURT: I think he said that he may have
19 concerns and he was honest that will, but he said that
20 notwithstanding that he wouldn't change his mind because
21 of it and he wouldn't rush to get back to work. So,
22 that is denied.

23 MR. WALENSKY: Note my objection.

24 THE COURT: Any other cause?

25 MS. CHU: I want to challenge juror number

Voir Dire

1 six, Shanice Hunter. I believe that she stood up
2 earlier and said she has to go to the doctor on Monday
3 and I know we have a full day with testimony. I don't
4 want her to delay how this case progresses because we
5 are already kind of putting --

6 THE COURT: I think she only needs to get an
7 iron shot, something like that. That's what she said,
8 although she didn't say --

9 MS. CHU: She has an appointment. How are we
10 going to try it, if we can?

11 MS. CHU: Find out from --

12 THE COURT: Call Ms. Hunter in.

13 (Whereupon, there was a brief pause in the
14 proceedings.)

15 COURT OFFICER: Juror entering.

16 (Whereupon, the prospective juror entered the
17 courtroom.)

18 THE COURT: Ms. Hunter, earlier you mentioned
19 something about an appointment on Monday.

20 PROSPECTIVE JUROR: Yes.

21 THE COURT: What is the appointment?

22 PROSPECTIVE JUROR: I have to have iron I.V.
23 done.

24 THE COURT: What?

25 PROSPECTIVE JUROR: Iron I.V. My hemoglobin

Voir Dire

1 is low. Either that, or a blood transfusion.

2 THE COURT: Is that going -- is it possible
3 to reschedule? We are not meeting on tomorrow.

4 PROSPECTIVE JUROR: No. My appointment is
5 Monday at eleven o'clock.

6 THE COURT: Is it possible to rearrange the
7 appointment?

8 PROSPECTIVE JUROR: I don't know.

9 THE COURT: You don't know.

10 Well, if we could rearrange the appointment,
11 would that be all right?

12 PROSPECTIVE JUROR: If I can rearrange it,
13 that is okay.

14 THE COURT: Who's the doctor?

15 PROSPECTIVE JUROR: I forgot his name.

16 THE COURT: You forgot his name?

17 PROSPECTIVE JUROR: I go to Brookdale.

18 THE COURT: You go to the hospital?

19 PROSPECTIVE JUROR: Uh-huh.

20 MS. CHU: May I ask a question?

21 How long does the procedure take?

22 PROSPECTIVE JUROR: It's an hour.

23 THE COURT: When would you go? When can you
24 go?

25 PROSPECTIVE JUROR: I don't know.

Voir Dire

1 THE COURT: What do you mean? Are they going
2 to give you a time or what?

3 PROSPECTIVE JUROR: They give you a set time.

4 THE COURT: What's your set time? What time
5 did they give you?

6 PROSPECTIVE JUROR: They gave me eleven
7 o'clock Monday morning.

8 THE COURT: Oh, eleven o'clock.

9 You may step outside.

10 Thank you.

11 PROSPECTIVE JUROR: Thank you.

12 (Whereupon, there was a brief pause in the
13 proceedings.)

14 THE COURT: She will be excused for cause.

15 Anything else for cause?

16 MS. CHU: Not for the rest of the twelve.

17 THE COURT: Defense, cause, first twelve?

18 MR. WALENSKY: No, not for the first twelve,
19 your Honor.

20 THE COURT: Perempt?

21 MS. CHU: Juror number four -- I'm sorry --
22 five.

23 THE COURT: Ms. Joseph.

24 MS. CHU: Lorraine Joseph.

25 Juror number eight, Ms. Webster.

Voir Dire

1 Juror number ten, Mr. Jenkins.

2 And juror number twelve, Mr. Volcy.

3 THE COURT: Defendant, perempt?

4 MR. WALENSKY: Juror one -- I'm sorry, my
5 mistake.

6 Juror two.

7 THE COURT: Derziotis?

8 MR. WALENSKY: Yes.

9 Four. Four.

10 THE COURT: Hold on.

11 THE CLERK: You said juror number four?

12 MR. WALENSKY: Juror four.

13 Juror seven.

14 Juror nine.

15 Give me one moment, your Honor.

16 (Whereupon, there was a brief pause in the
17 proceedings.)

18 MR. WALENSKY: All right, your Honor, that's
19 it.

20 THE CLERK: Juror number one will be Avelon
21 Ramnath.

22 Juror number two will be Jean Lackan.

23 And juror three will be Francisco Martinez.

24 THE COURT: All right, next up.

25 MR. WALENSKY: Hold on a second.

Voir Dire

1 (Whereupon, there was a brief pause in the
2 proceedings.)

3 MR. WALENSKY: Your Honor, I am going to
4 perempt number eleven also.

5 THE COURT: You just --

6 THE CLERK: It's too late.

7 THE COURT: You can't do that.

8 MR. WALENSKY: Fine.

9 I realized he --

10 THE COURT: You what?

11 MR. WALENSKY: Well, I was trying to decide
12 because he had said that --

13 THE COURT: You were deciding, then you made
14 the decision, then the Judge -- the Clerk began to read
15 those who were selected.

16 MR. WALENSKY: They haven't been sworn, your
17 Honor. We haven't started the rest. We haven't started
18 thirteen through twenty.

19 THE COURT: I understand that, counsel.

20 MR. WALENSKY: All right.

21 THE COURT: You know what, defendant --

22 MR. WALENSKY: My co-counsel likes him. Keep
23 him. What the heck.

24 THE COURT: What is your decision? Do you
25 want to challenge him or not, or your client?

Voir Dire

1 (Whereupon, there was a brief pause in the
2 proceedings.)

3 MR. WALENSKY: I am going to perempt him, your
4 Honor.

5 THE COURT: All right.

6 The next six, for cause.

7 MS. CHU: Your Honor, I will challenge juror
8 number sixteen. I believe he starts school on July 1st.
9 That would make him unavailable to actually serve.

10 THE COURT: Who's that?

11 MS. CHU: Mr. Duncan.

12 THE COURT: No, Duncan is -- I thought
13 Duncan's -- oh, Mr. Duncan, for cause, yeah.

14 All right.

15 THE CLERK: He's out?

16 THE COURT: He's out.

17 MS. CHU: Those are all I have for cause.

18 That's thirteen through eighteen, right?

19 THE COURT: Yes.

20 LAW SECRETARY: We have two jurors. It should
21 be the next ten.

22 THE COURT: We have two jurors?

23 THE CLERK: Yes.

24 THE COURT: Yes.

25 LAW SECRETARY: It should be everybody.

Voir Dire

1 MS. CHU: I thought you said the first six.

2 THE COURT: It's eight. You're right, all
3 right. I'm sorry.

4 It's six, that's right.

5 MS. CHU: There's eight more jurors.

6 THE CLERK: Eight left.

7 THE COURT: All right. The next eight, all
8 right.

9 You challenge Duncan?

10 MS. CHU: I challenge Duncan. I do not have
11 anymore cause challenges for the remainder.

12 THE COURT: Do you have any challenges?

13 MR. WALENSKY: No.

14 THE COURT: Perempt?

15 MS. CHU: Yes. People challenge juror number
16 fourteen.

17 THE COURT: Fourteen is Valenzuela.

18 Anyone else?

19 MS. CHU: Excuse me, I'm sorry.

20 (Whereupon, there was a brief pause in the
21 proceedings.)

22 MS. CHU: Juror number thirteen as well.

23 THE COURT: Vincent?

24 MS. CHU: Yes.

25 Juror number fifteen.

Voir Dire

1 THE COURT: Hold on.

2 Fifteen is Sutton.

3 MS. CHU: Sutton.

4 THE COURT: Any others?

5 MS. CHU: And juror number nineteen, Ms.

6 Walker.

7 THE COURT: All right.

8 Defense?

9 MR. WALENSKY: Juror number seventeen.

10 THE COURT: Smargiassi.

11 MR. WALENSKY: And juror number --

12 THE COURT: Hold on a minute. Hold on.

13 (Whereupon, there was a brief pause in the
14 proceedings.)

15 THE COURT: Who else?

16 MR. WALENSKY: Twenty.

17 THE COURT: Santiago?

18 MR. WALENSKY: Yes.

19 MS. CHU: I loved him.

20 THE CLERK: Is that it, Mr. Walensky?

21 MR. WALENSKY: That is it.

22 All we have left is Lynch, right?

23 I'm finished.

24 THE CLERK: Juror number three will be

25 Henderson Lynch.

Voir Dire

1 THE COURT: People have exercised eight and
2 defendant...

3 THE CLERK: Seven.

4 THE COURT: I have six.

5 MS. SCHWARTZKOPF: Seven.

6 THE CLERK: Seven.

7 MS. SCHWARTZKOPF: Two, four, seven, nine,
8 eleven, seventeen and twenty.

9 THE COURT: Wait a minute.

10 Two, that's the first one.

11 MS. SCHWARTZKOPF: Four.

12 THE COURT: Four is second.

13 MS. SCHWARTZKOPF: Seven and nine.

14 THE COURT: Seven and nine is four.

15 The next one is five.

16 MS. SCHWARTZKOPF: Yes.

17 THE COURT: That's six and seven, you're
18 right.

19 Okay.

20 Bring the panel in, please.

21 COURT OFFICER: Want the twenty in the box or
22 in the front row?

23 THE COURT: In the front row.

24 COURT OFFICER: Ready for the panel, your
25 Honor?

Voir Dire

1 THE COURT: Bring them in.

2 COURT OFFICER: Panel entering.

3 (Whereupon, the panel of prospective jurors
4 entered the courtroom.)

5 THE CLERK: Hats off, please, in court.

6 Okay, ladies and gentlemen, if you hear your
7 name called, that means you have been selected to serve
8 as a juror.

9 If you do not hear your name called, you are
10 excused, go back to the second floor with the thanks of
11 the Court.

12 Okay, if you hear your name called please say
13 "here" or "present," remain in the courtroom.

14 Juror number one will be Avelon Ramnath.

15 Just say "here" or "present."

16 PROSPECTIVE JUROR: Present.

17 THE CLERK: Juror number two, Jean Lackan.

18 PROSPECTIVE JUROR: Present.

19 THE CLERK: And juror three, Henderson Lynch.

20 PROSPECTIVE JUROR: Present.

21 THE CLERK: The rest of you go back to the
22 second floor, Central Jury.

23 (Whereupon, the panel of prospective jurors
24 exited the courtroom.)

25 THE COURT: Swear them in, please.

Voir Dire

1 THE CLERK: Will the three of you rise and
2 raise your right hand.

3 Do you and each of you sincerely and solemnly
4 swear or affirm that you will try this case in a just
5 and impartial manner to the best of your judgment and
6 you will render a verdict according to the law and the
7 evidence?

8 What is your response?

9 Your response?

10 (Whereupon, the jurors responded.)

11 THE COURT: Wait a minute.

12 Ladies and gentlemen, I'm going to direct you
13 to return on Monday at eleven o'clock in the jury room,
14 all right. You'll go with the officer now and he will
15 explain to you what you have to do, all right, but you
16 be there on Monday at eleven o'clock.

17 COURT OFFICER: Follow me.

18 THE COURT: Do not discuss the case amongst
19 yourselves or with anyone else or visit the place where
20 the alleged crimes occurred. Do not have any contact
21 with any of the parties involved in this matter.

22 (Whereupon, the sworn jurors exited the
23 courtroom.)

24 THE COURT: Bring in the rest of the jurors.

25 (Whereupon, there was a brief pause in the

Voir Dire

1 proceedings.)

2 COURT OFFICER: Ready for the panel, your
3 Honor?

4 THE COURT: Yes.

5 (Whereupon, the panel of prospective jurors
6 entered the courtroom.)

7 THE COURT: Listen for your name. If your
8 name is called, just say "present" or "here" and take a
9 seat in the jury box.

10 THE CLERK: Seat number one, will be Holland
11 Givanchi.

12 PROSPECTIVE JUROR: Givanchi (pronunciation),
13 G-I-V-A-N-C-H-I.

14 THE CLERK: Givanchi, excuse me.

15 G-I-V-A-N-C-H-I?

16 PROSPECTIVE JUROR: That is correct.

17 THE CLERK: Seat two, Cleo Gray.

18 PROSPECTIVE JUROR: Here.

19 THE CLERK: G-R-A-Y.

20 Seat three, Irina Slobod.

21 PROSPECTIVE JUROR: Present.

22 THE CLERK: S-L-O-B-O-D.

23 Seat four, Sarah Shaffee.

24 PROSPECTIVE JUROR: Yes.

25 THE CLERK: Can you pronounce that?

Voir Dire

1 PROSPECTIVE JUROR: Shaffee.

2 THE COURT: How do you spell the last name?

3 THE CLERK: S-H-A-F-F-E-E.

4 PROSPECTIVE JUROR: S-H-A-F-F-E-E, yeah.

5 THE CLERK: Seat five, Elizabeth Sanchez.

6 PROSPECTIVE JUROR: Here.

7 THE CLERK: S-A-N-C-H-E-Z.

8 Seat six is Christian Hatcher.

9 You have to say "here" or "present."

10 PROSPECTIVE JUROR: Here.

11 THE CLERK: H-A-T-C-H-E-R.

12 Seat seven, Alexander Nuciforo.

13 PROSPECTIVE JUROR: Nuciforo, N-U-C-I-F-O-R-O.

14 THE COURT: What?

15 THE CLERK: N-U-C-I-F-O-R-O.

16 Seat eight, Nicholas Healey.

17 PROSPECTIVE JUROR: Here.

18 THE CLERK: H-E-A-L-E-Y.

19 Seat nine, Rohan (phonetic) O'Connell.

20 PROSPECTIVE JUROR: It's Rohan

21 (pronunciation).

22 THE CLERK: Seat ten, Rosa Olibris.

23 PROSPECTIVE JUROR: Here.

24 THE CLERK: How do you pronounce it?

25 PROSPECTIVE JUROR: Olibris.

Voir Dire

1 THE CLERK: O-L-I-B-R-I-S.
2 THE COURT: O-L...
3 THE CLERK: O-L-I-B-R-I-S.
4 Seat eleven, Jay Perrier.
5 PROSPECTIVE JUROR: Here.
6 THE CLERK: P-E-R-R-I-E-R.
7 Seat twelve is Samuel Rossi.
8 PROSPECTIVE JUROR: Here.
9 Rossi (pronunciation).
10 THE CLERK: Rossi, R-O-S-S-I.
11 Seat thirteen, Joann Prezeau.
12 PROSPECTIVE JUROR: Present.
13 THE CLERK: Is it P-R-E-I-E-A-U?
14 PROSPECTIVE JUROR: P-R-E-Z-E-A-U.
15 THE CLERK: Z-E-A-U.
16 THE COURT: P-R-E...
17 PROSPECTIVE JUROR: Z-E-A-U.
18 THE CLERK: P-R-E-Z-E-A-U.
19 Seat fourteen, Katie Dixon.
20 PROSPECTIVE JUROR: Present.
21 THE CLERK: D-I-X-O-N.
22 Seat fifteen is Shane O'Reilly.
23 PROSPECTIVE JUROR: Here.
24 THE CLERK: O-R-E-I-L-L-Y.
25 Seat sixteen, Eva (phonetic) Jablonska.

Voir Dire

1 PROSPECTIVE JUROR: Here.

2 THE CLERK: Pronounce your last name.

3 PROSPECTIVE JUROR: Jablonska.

4 THE CLERK: J-A-B-L-O-N-S-K-A.

5 Seat seventeen, Deanna Clements.

6 PROSPECTIVE JUROR: Here.

7 THE CLERK: C-L-E-M-E-N-T-S.

8 Seat eighteen, Desiree Conigliaro.

9 PROSPECTIVE JUROR: Desiree Conigliaro

10 (pronunciation).

11 THE COURT: Conigliaro.

12 THE CLERK: C-O-N-I-G-L-I-A-R-O.

13 Seat nineteen, Blessing Fadaka.

14 PROSPECTIVE JUROR: Here.

15 THE CLERK: F-A-D-A-K-A.

16 Thank you.

17 THE COURT: F-A-D...

18 THE CLERK: ...A-K-A.

19 THE COURT: Seat 20 is Justin Feinstein.

20 PROSPECTIVE JUROR: Feinstein (pronunciation).

21 THE CLERK: F-E-I-N-S-T-E-I-N.

22 THE COURT: Mr. Givanchi, neighborhood?

23 You can sit down.

24 PROSPECTIVE JUROR: Brighton Beach.

25 THE COURT: Brighton Beach.

Voir Dire

1 Ms. Gray?
2 PROSPECTIVE JUROR: Williamsburg.
3 THE COURT: Ms. Slobod?
4 PROSPECTIVE JUROR: Sheepshead Bay.
5 THE COURT: Sheepshead Bay.
6 Ms. Shaffee?
7 PROSPECTIVE JUROR: Coney Island.
8 THE COURT: Ms. Sanchez?
9 PROSPECTIVE JUROR: Bay Ridge.
10 THE COURT: Mr. Hatcher?
11 PROSPECTIVE JUROR: Bedford-Stuyvesant.
12 THE COURT: Bed-Stuy.
13 Ms. Dixon?
14 PROSPECTIVE JUROR: East New York.
15 THE COURT: I'm sorry?
16 PROSPECTIVE JUROR: East New York.
17 THE COURT: Okay.
18 Ms. Jablonska?
19 PROSPECTIVE JUROR: Bay Ridge.
20 THE COURT: Bay Ridge.
21 Ms. Conigliaro?
22 PROSPECTIVE JUROR: Bensonhurst.
23 THE COURT: And Mr. Feinstein?
24 PROSPECTIVE JUROR: Carroll Gardens.
25 MS. CHU: I'm sorry?

Voir Dire

1 THE COURT: Carroll Gardens.

2 Ms. Fadaka?

3 PROSPECTIVE JUROR: Fort Green.

4 THE COURT: Ms. Clements?

5 PROSPECTIVE JUROR: Prospect Heights.

6 THE COURT: Prospect Heights.

7 Mr. O'Reilly.

8 PROSPECTIVE JUROR: Crown Heights.

9 THE COURT: Crown Heights.

10 Ms. Prezeau?

11 PROSPECTIVE JUROR: Flatbush.

12 THE COURT: Mr. Rossi?

13 PROSPECTIVE JUROR: Flatbush.

14 THE COURT: Flatbush.

15 Mr. Perrier?

16 PROSPECTIVE JUROR: Bay Ridge.

17 THE COURT: Bay ridge.

18 Ms. Olibris?

19 PROSPECTIVE JUROR: Crown Heights.

20 THE COURT: Crown Heights?

21 PROSPECTIVE JUROR: Yes.

22 THE COURT: Mr. O'Connell?

23 PROSPECTIVE JUROR: Williamsburg.

24 THE COURT: Williamsburg.

25 Mr. Healey?

Voir Dire

1 PROSPECTIVE JUROR: Greenpoint.

2 THE COURT: Greenpoint.

3 And Mr. Nuciforo?

4 PROSPECTIVE JUROR: Nuciforo (pronunciation).

5 THE COURT: Spell your last name.

6 PROSPECTIVE JUROR: N-U-C-I-F-O-R-O.

7 THE COURT: Nuciforo.

8 PROSPECTIVE JUROR: Bensonhurst.

9 THE COURT: All right.

10 First row, any of you ladies and gentlemen
11 familiar with the crime scene area, 832 Bushwick Avenue?

12 First row?

13 Anyone in the second row?

14 All right.

15 Mr. Givanchi, married, single, divorced,
16 separated?

17 PROSPECTIVE JUROR: Single.

18 Transportation.

19 THE COURT: What do you do?

20 PROSPECTIVE JUROR: Transportation.

21 THE COURT: That doesn't mean anything.

22 PROSPECTIVE JUROR: Bus driver.

23 THE COURT: For New York City?

24 PROSPECTIVE JUROR: No, your Honor. I lived
25 here a year and a half, I am trying to get --

Voir Dire

1 THE COURT: I'm sorry, what?

2 PROSPECTIVE JUROR: I am here a year and a
3 half, I am trying to get hired by MTA.

4 THE COURT: Who do you work for now?

5 PROSPECTIVE JUROR: I'm unemployed.

6 PROSPECTIVE JUROR: Unemployed.

7 THE COURT: Oh, you're unemployed?

8 PROSPECTIVE JUROR: Yes, Judge.

9 THE COURT: I'm sorry.

10 Presently unemployed, okay.

11 Ms. Gray, married, single, separated,
12 divorced?

13 PROSPECTIVE JUROR: Single.

14 THE COURT: And your occupation?

15 PROSPECTIVE JUROR: I'm an actor.

16 THE COURT: And Ms. Slobod?

17 PROSPECTIVE JUROR: I'm married.

18 THE COURT: Married.

19 PROSPECTIVE JUROR: Home attendant.

20 THE COURT: What do you do for a living?

21 PROSPECTIVE JUROR: I do everything.

22 THE COURT: You work or --

23 PROSPECTIVE JUROR: Home attendant.

24 THE COURT: You're a home attendant.

25 And your husband?

Voir Dire

1 PROSPECTIVE JUROR: School bus driver.

2 THE COURT: Okay. All right.

3 Ms. Shaffee?

4 PROSPECTIVE JUROR: Divorced.

5 And retired.

6 THE COURT: What did you do before you

7 retired? What kind of work did you?

8 PROSPECTIVE JUROR: Accountant and

9 administrative duties.

10 THE COURT: Ms. Sanchez?

11 PROSPECTIVE JUROR: Married.

12 THE COURT: Your occupation?

13 PROSPECTIVE JUROR: Executive assistant for

14 Citibank.

15 THE COURT: Executive assistant city what?

16 PROSPECTIVE JUROR: Executive assistant. The

17 company is Citibank.

18 THE COURT: Oh, Citibank.

19 Who has -- all devices have to be turned off.

20 And your spouse?

21 PROSPECTIVE JUROR: Analyst, anti money

22 laundering for the Citibank.

23 THE COURT: Financial analysis?

24 PROSPECTIVE JUROR: Yeah, anti money

25 laundering.

Voir Dire

1 THE COURT: All right.

2 And Mr. Hatcher?

3 PROSPECTIVE JUROR: Single.

4 THE COURT: Your occupation?

5 PROSPECTIVE JUROR: Cashier, security.

6 THE COURT: You work as a cashier and also a
7 security guard?

8 PROSPECTIVE JUROR: Sometimes.

9 THE COURT: Ms. Dixon?

10 PROSPECTIVE JUROR: Single.

11 Home health aide.

12 Ms. Jablonska?

13 PROSPECTIVE JUROR: Divorced.

14 Housekeeper.

15 THE COURT: Ms. Conigliaro?

16 PROSPECTIVE JUROR: Divorced.

17 Finance coordinator for a charter school.

18 THE COURT: Mr. Feinstein?

19 PROSPECTIVE JUROR: Married.

20 Advertising creative director.

21 THE COURT: And your spouse?

22 PROSPECTIVE JUROR: Small business owner.

23 THE COURT: What kind of business?

24 PROSPECTIVE JUROR: Writing workshops.

25 THE COURT: Ms. Fadaka?

Voir Dire

1 PROSPECTIVE JUROR: Single, registered nurse.

2 THE COURT: Ms. Clements?

3 PROSPECTIVE JUROR: Digital marketing manager.

4 THE COURT: You married, single?

5 PROSPECTIVE JUROR: Divorced.

6 THE COURT: What do you do?

7 PROSPECTIVE JUROR: Digital marketing manager.

8 THE COURT: Mr. O'Reilly?

9 PROSPECTIVE JUROR: I'm single.

10 And beer salesman.

11 THE COURT: A beer salesman?

12 PROSPECTIVE JUROR: Yeah.

13 THE COURT: And Ms. Prezeau?

14 PROSPECTIVE JUROR: Divorced.

15 Home attendant.

16 THE COURT: And Mr. Rossi?

17 PROSPECTIVE JUROR: Married.

18 Retail manager.

19 THE COURT: And your spouse?

20 PROSPECTIVE JUROR: She's unemployed.

21 THE COURT: What?

22 PROSPECTIVE JUROR: Unemployed.

23 THE COURT: Unemployed?

24 PROSPECTIVE JUROR: Yes.

25 THE COURT: Did she work before?

Voir Dire

1 PROSPECTIVE JUROR: A while ago.

2 THE COURT: Doing what?

3 PROSPECTIVE JUROR: She was doing secretary
4 work.

5 THE COURT: Mr. Perrier?

6 PROSPECTIVE JUROR: Single.

7 Laboratory manager.

8 THE COURT: What kind of lab?

9 PROSPECTIVE JUROR: Biological and
10 radiological research.

11 THE COURT: You're a laboratory assistant, you
12 said?

13 PROSPECTIVE JUROR: Manager.

14 THE COURT: Oh, manager, I'm sorry.

15 Ms. Olibris, married, single, separated?

16 PROSPECTIVE JUROR: Divorced.

17 Social worker.

18 THE COURT: And Mr. O'Connell?

19 PROSPECTIVE JUROR: Single.

20 Graphic designer.

21 THE COURT: And Mr. Healey?

22 PROSPECTIVE JUROR: Divorced.

23 Law enforcement.

24 THE COURT: What do you do?

25 PROSPECTIVE JUROR: I'm a lieutenant at the

Voir Dire

1 New York City Taxi Limousine Commission.

2 THE COURT: You're a lieutenant with whom?

3 PROSPECTIVE JUROR: New York City Taxi

4 Limousine Commission.

5 THE COURT: And Mr. Nuciforo?

6 PROSPECTIVE JUROR: Single.

7 Full-time student and I coach soccer at a day
8 camp.

9 THE COURT: What are you studying?

10 PROSPECTIVE JUROR: Civil engineering.

11 THE COURT: Civil engineering, all right.

12 First row, any of you ladies and gentlemen
13 ever serve on a jury before?

14 Just raise your hand if you did.

15 Ms. Shaffee, what kind of jury was it? Civil?

16 PROSPECTIVE JUROR: Civil.

17 THE COURT: Civil, okay.

18 How long ago?

19 PROSPECTIVE JUROR: A little over six years.

20 THE COURT: Okay.

21 And, Mr. Feinstein, how long ago for you?

22 What kind of jury was it?

23 PROSPECTIVE JUROR: Criminal, seven years.

24 THE COURT: Criminal?

25 PROSPECTIVE JUROR: Yes.

Voir Dire

1 THE COURT: What was the charge?

2 PROSPECTIVE JUROR: Arson.

3 THE COURT: Was there a verdict, yes or no?

4 PROSPECTIVE JUROR: Yes.

5 THE COURT: How long ago was that?

6 PROSPECTIVE JUROR: Seven years ago.

7 THE COURT: Seven years ago.

8 Second row, same question, any of you ever sat
9 on a jury before, civil or criminal?

10 Okay.

11 First row, any of you ladies and gentlemen
12 ever been the victim of a crime, be it a petty crime or
13 a major crime, any crime, you, yourself, been the victim
14 or someone close to you or a relative? Anyone in the
15 first row?

16 Mr. Feinstein?

17 PROSPECTIVE JUROR: I've been robbed twice.

18 THE COURT: Raise your hand then I'll respond
19 to you.

20 All right.

21 Ms. Shaffee, you have been robbed twice?

22 PROSPECTIVE JUROR: Yeah.

23 THE COURT: Were weapons involved?

24 PROSPECTIVE JUROR: Once, at gunpoint, in the
25 office and then another time was in an apartment

Voir Dire

1 building, by the elevator.

2 THE COURT: Was the office at gunpoint?

3 PROSPECTIVE JUROR: The office was gunpoint,
4 yes.

5 THE COURT: And the second one is where?

6 PROSPECTIVE JUROR: In my building.

7 THE COURT: In your apartment or in the
8 hallway?

9 PROSPECTIVE JUROR: No, by the elevator.

10 THE COURT: By the elevator?

11 PROSPECTIVE JUROR: By the elevator.

12 THE COURT: Was there a weapon there?

13 PROSPECTIVE JUROR: No.

14 THE COURT: Okay.

15 Did you report both?

16 PROSPECTIVE JUROR: Yeah. My apartment was
17 robbed once also.

18 THE COURT: Your what?

19 PROSPECTIVE JUROR: My apartment was robbed
20 also once.

21 THE COURT: Also your apartment was
22 burglarized?

23 PROSPECTIVE JUROR: Also, yeah.

24 THE COURT: And you reported that?

25 PROSPECTIVE JUROR: Yeah.

Voir Dire

1 THE COURT: Okay.

2 Who else?

3 Mr. Feinstein?

4 PROSPECTIVE JUROR: Mugged at gunpoint.

5 THE COURT: You were robbed at gunpoint?

6 PROSPECTIVE JUROR: Robbed.

7 THE COURT: Where did this occur?

8 PROSPECTIVE JUROR: Washington, D.C.

9 THE COURT: On the street?

10 PROSPECTIVE JUROR: Yes.

11 THE COURT: You reported that to the police?

12 PROSPECTIVE JUROR: Yep.

13 THE COURT: Who else, first row? Anyone else,
14 first row?

15 It doesn't have to be you, yourself, could be
16 someone very close to you or a relative, all right.

17 Mr. Givanchi?

18 PROSPECTIVE JUROR: Yes, your Honor.

19 THE COURT: What?

20 PROSPECTIVE JUROR: It's kind of hard for me
21 to say this. Sexual assault.

22 THE COURT: You were the victim of sexual
23 assault?

24 PROSPECTIVE JUROR: Yes, sir.

25 THE COURT: And how long ago was this and

Voir Dire

1 where?

2 PROSPECTIVE JUROR: This is in San Francisco.

3 THE COURT: Was this reported to the police?

4 PROSPECTIVE JUROR: No, your Honor.

5 THE COURT: Okay.

6 Anyone else?

7 All right.

8 Second row, same question?

9 Just raise your hands, I will go down.

10 Mr. O'Reilly.

11 PROSPECTIVE JUROR: Yes. My vehicle was shot

12 and no one was injured.

13 THE COURT: Your vehicle was what?

14 PROSPECTIVE JUROR: Vehicle was shot.

15 THE COURT: You mean somebody put a bullet

16 into your vehicle?

17 PROSPECTIVE JUROR: In the vehicle.

18 No one was injured in that one.

19 My house, my apartment, was burglarized like

20 eight years ago as well. Both were reported.

21 THE COURT: Who else?

22 Ms. Prezeau?

23 PROSPECTIVE JUROR: My nephew was murdered.

24 THE COURT: Who?

25 PROSPECTIVE JUROR: Nephew. My nephew.

Voir Dire

1 THE COURT: Oh, your nephew. Sorry.

2 And how did that occur, shooting, stabbing?

3 PROSPECTIVE JUROR: Shooting.

4 THE COURT: How long ago?

5 PROSPECTIVE JUROR: Three years.

6 THE COURT: Did they ever find out who did it?

7 PROSPECTIVE JUROR: Yes. His girlfriend --

8 his wife.

9 THE COURT: Which? Wife?

10 PROSPECTIVE JUROR: Girlfriend.

11 THE COURT: Domestic violence?

12 PROSPECTIVE JUROR: Yes.

13 THE COURT: Did she go to jail? Was she

14 convicted?

15 PROSPECTIVE JUROR: No. We couldn't -- we

16 didn't have enough money to pursue it. It was

17 Upstate -- in Connecticut, and we couldn't do anything

18 and they didn't want to do anything for us on our part.

19 THE COURT: The police didn't want to do

20 anything?

21 PROSPECTIVE JUROR: Well, the police said he

22 shot himself and when -- when we get somebody to

23 investigate, the bullet was in the back of his head so,

24 you know, then they -- we asked them if there was gun

25 residue on his hand and they couldn't give us an answer.

Voir Dire

1 THE COURT: Sorry to hear that.

2 Anyone else?

3 Mr. Rossi?

4 PROSPECTIVE JUROR: Robbed at gunpoint.

5 THE COURT: You were robbed at gunpoint?

6 PROSPECTIVE JUROR: Yes.

7 THE COURT: When? How long ago?

8 PROSPECTIVE JUROR: Probably about fifteen,
9 sixteen years ago.

10 THE COURT: Was that reported to the police?

11 PROSPECTIVE JUROR: It was.

12 THE COURT: Was the perpetrator ever
13 apprehended?

14 PROSPECTIVE JUROR: No.

15 And I was also shot in my leg.

16 THE COURT: You were shot in your leg?

17 PROSPECTIVE JUROR: Yes.

18 THE COURT: Was that person apprehended?

19 PROSPECTIVE JUROR: No.

20 THE COURT: Was it a drive-by or what was it?

21 PROSPECTIVE JUROR: I was just caught in the
22 middle of, like, a shootout.

23 THE COURT: Who else?

24 Ms. Olibris?

25 PROSPECTIVE JUROR: Olibris (pronunciation).

Voir Dire

1 (Whereupon, there was a brief pause in the
2 proceedings.)

3 THE COURT: Ms. Olibris, you want to come up,
4 you said?

5 PROSPECTIVE JUROR: My laptop, somebody stole
6 my laptop from my room.

7 THE COURT: Somebody stole your laptop from
8 your room?

9 PROSPECTIVE JUROR: My room.

10 THE COURT: Who else?

11 Mr. O'Connell?

12 PROSPECTIVE JUROR: My aunt got murdered by --
13 by a boyfriend.

14 THE COURT: Was a weapon involved?

15 PROSPECTIVE JUROR: I think just his hands.

16 THE COURT: How long ago was that?

17 PROSPECTIVE JUROR: Four years ago.

18 THE COURT: He was arrested?

19 PROSPECTIVE JUROR: Yeah. He killed himself
20 so --

21 THE COURT: Oh, he killed himself. Sorry to
22 hear that.

23 Mr. Healey?

24 PROSPECTIVE JUROR: I worked for a gas station
25 and we were robbed at gunpoint.

Voir Dire

1 THE COURT: Okay.

2 You were working at the gas station?

3 PROSPECTIVE JUROR: Yes.

4 THE COURT: And anyone else?

5 That's it?

6 First row, any of you ladies and gentlemen
7 ever been accused of or arrested for or convicted for a
8 crime, either yourself or someone close to you or a
9 relative? Anyone?

10 Mr. Hatcher?

11 PROSPECTIVE JUROR: There was a brawl by the
12 police station, I was coming from the store and I guess
13 cops were everywhere and I was on my way home and I got
14 stopped by the police, you know, thrown to the car and
15 everything. I wasn't even involved. And they was
16 searching my pockets, everything, for I guess, like, a
17 gun or a weapon because they said I might have had it.

18 THE COURT: There was a fight in front of a
19 police station you said?

20 PROSPECTIVE JUROR: Yeah.

21 THE COURT: On the street?

22 PROSPECTIVE JUROR: Yeah. There was also a
23 store there I was coming from.

24 THE COURT: So they thought you were part of
25 this fight or brawl, you said?

Voir Dire

1 PROSPECTIVE JUROR: Yes.

2 THE COURT: Were you taken in and booked or
3 not?

4 PROSPECTIVE JUROR: No. My mother came to get
5 me.

6 THE COURT: How old were you at the time?

7 PROSPECTIVE JUROR: It was before I left. I
8 was about eighteen.

9 THE COURT: Before you left for what?

10 PROSPECTIVE JUROR: To Pennsylvania. I was
11 about seventeen, eighteen.

12 THE COURT: How long ago was that?

13 PROSPECTIVE JUROR: About two years ago.

14 THE COURT: Is that going to affect your
15 judgment in this case?

16 PROSPECTIVE JUROR: It might 'cause there was
17 another incident that happened.

18 THE COURT: What happened?

19 PROSPECTIVE JUROR: I guess somebody called
20 the cops on my mother for something, and I wasn't aware
21 of that, just kind of like walked into it, and police
22 came to the door and there was a problem, and then the
23 cops just stopped me again because they thought I might
24 have been trying to do something. They had me against
25 the wall, tried to handcuff me.

Voir Dire

1 THE COURT: Were you booked on that?

2 PROSPECTIVE JUROR: No.

3 THE COURT: And what happened?

4 PROSPECTIVE JUROR: They kind of stopped once
5 they found out what was really going on. There was a
6 big misunderstanding.

7 THE COURT: It was a misunderstanding, you
8 said?

9 PROSPECTIVE JUROR: I kind of just walked in.
10 I was in the hallway listening.

11 THE COURT: So you say it is going to affect
12 you or not?

13 PROSPECTIVE JUROR: It might, yeah.

14 THE COURT: You are excused, Mr. Hatcher.

15 PROSPECTIVE JUROR: Thank you.

16 THE CLERK: Seat number six will be Margaret
17 Gabriel.

18 PROSPECTIVE JUROR: Yes.

19 THE CLERK: G-A-B-R-I-E-L.

20 THE COURT: Do you have any problems sitting
21 on this, Ms. Gabriel?

22 PROSPECTIVE JUROR: No, not at all.

23 THE COURT: Okay.

24 Ms. Gabriel, your neighborhood?

25 PROSPECTIVE JUROR: East Flatbush.

Voir Dire

1 THE COURT: East Flatbush.

2 And you're familiar with the crime scene area?

3 PROSPECTIVE JUROR: No, I'm not.

4 THE COURT: Married, single, separated,
5 divorced?

6 PROSPECTIVE JUROR: Divorced.

7 THE COURT: Have you ever served on a jury
8 before?

9 PROSPECTIVE JUROR: No.

10 THE COURT: Okay.

11 Have you ever been the victim of a crime?

12 PROSPECTIVE JUROR: Just recently, in
13 November, I was. My home was burglarized.

14 THE COURT: Home burglarized.

15 Have you ever been accused or arrested or
16 convicted of a crime, or someone close to you?

17 PROSPECTIVE JUROR: No, not that I know of.

18 THE COURT: Anyone else?

19 Thank you very much.

20 Anyone else?

21 First row?

22 Second row?

23 Anyone accused, arrested, convicted of a
24 crime, or someone close to you?

25 That's Mr. O'Connell?

Voir Dire

1 PROSPECTIVE JUROR: Last year I --

2 THE COURT: What?

3 PROSPECTIVE JUROR: Last year I went into the
4 wrong apartment coming back pretty drunk.

5 THE COURT: Start over, slowly.

6 PROSPECTIVE JUROR: Sorry, sorry.

7 It was trespass. I went into the wrong
8 apartment by accident, so the cops came and started to
9 arrest me then the apartment people realized I wasn't
10 really --

11 THE COURT: You said you went into another
12 apartment, you thought it was your apartment?

13 PROSPECTIVE JUROR: Yeah, yeah. I had a few
14 drinks and I didn't get pressed charges, in the end.

15 THE COURT: Did they drop the charges?

16 PROSPECTIVE JUROR: Eventually.

17 THE COURT: Were you booked on it?

18 PROSPECTIVE JUROR: They gave me a ticket. I
19 was handcuffed and stuff.

20 THE COURT: So you were given a ticket for --

21 PROSPECTIVE JUROR: Trespassing, but it
22 never --

23 THE COURT: Where are you from? Australia?

24 PROSPECTIVE JUROR: England.

25 THE COURT: England?

Voir Dire

1 PROSPECTIVE JUROR: Yeah.

2 THE COURT: How long ago was this?

3 PROSPECTIVE JUROR: Last year.

4 THE COURT: Anybody else?

5 All right.

6 First row, any of you ladies and gentlemen
7 related to, friendly with, interact with any law
8 enforcement agents or attorneys?

9 First row?

10 Ms. Gabriel?

11 PROSPECTIVE JUROR: My son is a police
12 officer.

13 THE COURT: Son's a police officer where?

14 PROSPECTIVE JUROR: I think he just got
15 transferred to a precinct in Queens. I'm not familiar
16 with it.

17 THE COURT: Anyone else?

18 Yes, Mr. Feinstein?

19 PROSPECTIVE JUROR: My father was a
20 prosecuting attorney for the Justice Department.

21 THE COURT: Father works for the Attorney
22 General?

23 PROSPECTIVE JUROR: Department of Justice in
24 Washington.

25 THE COURT: U.S. Attorney.

Voir Dire

1 How long ago did he work there?

2 PROSPECTIVE JUROR: Fifteen years ago.

3 THE COURT: Is he retired?

4 PROSPECTIVE JUROR: He's a musician now as a
5 profession.

6 THE COURT: He's probably happier.

7 PROSPECTIVE JUROR: Much.

8 THE COURT: Okay.

9 Anyone else, first row?

10 No attorneys, no law enforcement agents?

11 Second row, anyone friendly with --

12 Ms. -- let's see, that's Ms. Clements?

13 PROSPECTIVE JUROR: Yes.

14 My sister is a paralegal.

15 THE COURT: What?

16 PROSPECTIVE JUROR: My sister's a paralegal.

17 THE COURT: Oh, your sister's a paralegal.

18 She works for a law firm?

19 PROSPECTIVE JUROR: Yes, in Atlanta. I'm not
20 familiar with the name, I'm sorry.

21 THE COURT: Paralegal in an Atlanta law firm.

22 Do you know what kind of work they do?

23 PROSPECTIVE JUROR: I don't know.

24 THE COURT: Okay.

25 Anyone else?

Voir Dire

1 Mr. O'Connell?

2 PROSPECTIVE JUROR: My dad is an attorney. He
3 was a prosecutor for United States defense.

4 THE COURT: Your dad is an attorney in
5 England?

6 PROSPECTIVE JUROR: He's over here.

7 THE COURT: Over here?

8 PROSPECTIVE JUROR: Yeah.

9 THE COURT: What kind of attorney? Criminal
10 defense?

11 PROSPECTIVE JUROR: Criminal defense. He was
12 a prosecutor for --

13 THE COURT: And who else raised their hand?

14 Mr. Healey, you're in law enforcement?

15 PROSPECTIVE JUROR: I worked for law
16 enforcement.

17 THE COURT: All right.

18 Anybody else?

19 Oh, yes, Mr. Nuciforo.

20 PROSPECTIVE JUROR: My uncle was a detective
21 in the N.Y.P.D. and another uncle was a sergeant in the
22 L.A.P.D.

23 THE COURT: So your uncle was a detective in
24 the N.Y.P.D. and you had another uncle?

25 PROSPECTIVE JUROR: He was a sergeant in the

Voir Dire

1 L.A.P.D.

2 THE COURT: Los Angeles?

3 PROSPECTIVE JUROR: Yes.

4 THE COURT: All right.

5 Mr. Givanchi, can you be fair and impartial in
6 this case?

7 PROSPECTIVE JUROR: I can, your Honor.

8 THE COURT: Thank you.

9 Ms. Gray?

10 PROSPECTIVE JUROR: Yes.

11 THE COURT: Ms. Slobod?

12 PROSPECTIVE JUROR: Yes.

13 THE COURT: What?

14 PROSPECTIVE JUROR: Yes.

15 THE COURT: Yes.

16 Ms. Shaffee?

17 PROSPECTIVE JUROR: Yes.

18 THE COURT: Ms. Sanchez?

19 PROSPECTIVE JUROR: Yes.

20 THE COURT: Ms. Gabriel?

21 PROSPECTIVE JUROR: Yes.

22 THE COURT: Ms. Dixon?

23 PROSPECTIVE JUROR: Yes.

24 THE COURT: And Ms. Jablonska?

25 PROSPECTIVE JUROR: Yes.

Voir Dire

1 THE COURT: Ms. Conigliaro?

2 PROSPECTIVE JUROR: Yes.

3 THE COURT: Mr. Feinstein?

4 PROSPECTIVE JUROR: I can't say I could or
5 couldn't.

6 THE COURT: What's the reason?

7 PROSPECTIVE JUROR: Experience of serving as a
8 juror last time.

9 THE COURT: You had some experience when you
10 were a juror last time?

11 PROSPECTIVE JUROR: Yes.

12 THE COURT: When was the last time you sat?

13 PROSPECTIVE JUROR: About seven years ago.

14 THE COURT: And there were problems with the
15 jury or what?

16 PROSPECTIVE JUROR: The prosecutor shared
17 information with us after the verdict.

18 THE COURT: That disturbed you?

19 PROSPECTIVE JUROR: Yeah. It made me --

20 THE COURT: You are excused, Mr. Feinstein.

21 Fill the box.

22 THE CLERK: Seat twenty will be Charles Curto,
23 C-U-R-T-O.

24 PROSPECTIVE JUROR: Yes.

25 MR. WALENSKY: Your Honor, may we approach for

Voir Dire

1 a moment?

2 THE COURT: Come up.

3 (Whereupon, a sidebar conference was held off
4 the record.)

5 THE COURT: Mr. Curto, your neighborhood?

6 PROSPECTIVE JUROR: Bensonhurst.

7 THE COURT: And you're familiar with the crime
8 scene area?

9 PROSPECTIVE JUROR: No.

10 THE COURT: Married, single, separated?

11 PROSPECTIVE JUROR: Single.

12 THE COURT: Your occupation?

13 PROSPECTIVE JUROR: I'm a manager at a Rite
14 Aid Pharmacy.

15 THE COURT: Okay.

16 And have you ever served on a jury before?

17 PROSPECTIVE JUROR: No.

18 THE COURT: No.

19 Have you ever been the victim of a crime, or
20 someone close to you?

21 PROSPECTIVE JUROR: There was this little hit
22 and run, I was on a bike and a car -- I filled out an
23 incident report, never went to the hospital. I was
24 okay. That was last summer.

25 THE COURT: You were hit and run? You were

Voir Dire

1 hit on a bike?

2 PROSPECTIVE JUROR: I was on a bike.

3 THE COURT: And the car took off?

4 PROSPECTIVE JUROR: Yeah.

5 THE COURT: Okay.

6 Have you ever been accused, arrested or
7 convicted of a crime, or someone close to you?

8 PROSPECTIVE JUROR: No, sir.

9 THE COURT: And are you related to, interact
10 with, friendly with, any law enforcement agents or
11 attorneys?

12 PROSPECTIVE JUROR: No.

13 THE COURT: Can you be fair and impartial in
14 this case?

15 PROSPECTIVE JUROR: Yes.

16 THE COURT: Thank you.

17 All right.

18 Ms. Fadaka, can you be fair and impartial in
19 this case?

20 PROSPECTIVE JUROR: Yes.

21 THE COURT: Ms. Clements?

22 PROSPECTIVE JUROR: Yes.

23 THE COURT: Mr. O'Reilly?

24 PROSPECTIVE JUROR: Yes.

25 THE COURT: Ms. Prezeau?

Voir Dire

1 PROSPECTIVE JUROR: I'm not sure.

2 THE COURT: You are not sure?

3 PROSPECTIVE JUROR: No.

4 THE COURT: Why not?

5 PROSPECTIVE JUROR: I will be too emotional.

6 THE COURT: Is this related to your nephew?

7 PROSPECTIVE JUROR: Yeah.

8 THE COURT: You are excused.

9 Ms. Prezeau?

10 I'm sorry.

11 THE CLERK: Thirteen, she's excused.

12 THE COURT: Fill the box.

13 THE CLERK: Seat number thirteen will be

14 Jonathan Crockett.

15 Say "here" or "present."

16 C-R-O-C-K-E-T-T.

17 THE COURT: Do you have any problem sitting on
18 this matter, Mr. Crockett?

19 PROSPECTIVE JUROR: No.

20 THE COURT: Mr. Crockett, your neighborhood?

21 PROSPECTIVE JUROR: Greenpoint.

22 THE COURT: And you are familiar with the
23 crime scene area?

24 PROSPECTIVE JUROR: I don't think so.

25 THE COURT: Okay.

Voir Dire

1 Married, single, separated, divorced?

2 PROSPECTIVE JUROR: Engaged.

3 THE COURT: Engaged.

4 And your occupation?

5 PROSPECTIVE JUROR: Web developer.

6 THE COURT: A what?

7 PROSPECTIVE JUROR: Web developer.

8 THE COURT: Web developer, okay.

9 And your significant other?

10 PROSPECTIVE JUROR: She's a project manager
11 but currently unemployed.

12 THE COURT: Okay.

13 Have you ever sat on a jury, another jury?

14 PROSPECTIVE JUROR: No.

15 THE COURT: Have you ever been the victim of a
16 crime, or someone close to you?

17 PROSPECTIVE JUROR: Yes.

18 THE COURT: What?

19 PROSPECTIVE JUROR: Burglary.

20 THE COURT: Your apartment or home?

21 PROSPECTIVE JUROR: Apartment. And --

22 THE COURT: What else?

23 PROSPECTIVE JUROR: My parents had their car
24 stolen and they had their house burglarized before.

25 THE COURT: Have you ever been accused of,

Voir Dire

1 arrested for, or convicted of a crime?

2 PROSPECTIVE JUROR: Yes. When I was a
3 teenager, like criminal mischief.

4 THE COURT: Did you go to Family Court?

5 PROSPECTIVE JUROR: Yes.

6 THE COURT: What did they do? What happened
7 after you were arrested?

8 PROSPECTIVE JUROR: Well, I eventually got an
9 ACD.

10 THE COURT: Okay.

11 Are you related to, friendly with, interact
12 with any law enforcement agents or attorneys?

13 PROSPECTIVE JUROR: Well, my uncle and my
14 cousin are both immigration lawyers.

15 I have two second cousins that are both police
16 officers in New Jersey.

17 THE COURT: In New Jersey, two what?

18 PROSPECTIVE JUROR: Police officers.

19 THE COURT: What is their relationship?

20 PROSPECTIVE JUROR: Second cousins. Cousins.

21 THE COURT: Okay.

22 Can you be fair and impartial in this case?

23 PROSPECTIVE JUROR: Yes.

24 THE COURT: Thank you.

25 Mr. Rossi?

Voir Dire

1 PROSPECTIVE JUROR: Yes.

2 THE COURT: Mr. Perrier?

3 PROSPECTIVE JUROR: Yes.

4 THE COURT: Ms. Olibris?

5 PROSPECTIVE JUROR: My job might be a problem.

6 THE COURT: What do you do?

7 PROSPECTIVE JUROR: I am on vacation now. I
8 am supposed to be returning to my job on the 1st and I
9 haven't told my supervisor.

10 THE COURT: You don't have to worry about that
11 because they can't do anything. You are on jury service
12 or participating in jury service, you cannot -- your job
13 cannot be affected.

14 You understand?

15 And we will inform them of that fact, all
16 right?

17 PROSPECTIVE JUROR: Okay.

18 THE COURT: Who do you work for?

19 PROSPECTIVE JUROR: SCO Family Services. I
20 work with children and families.

21 THE COURT: My question to you, can you be
22 fair and impartial in this case?

23 PROSPECTIVE JUROR: Yeah.

24 THE COURT: Okay.

25 Thank you.

Voir Dire - People/Ms. Chu

1 Mr. O'Connell?

2 PROSPECTIVE JUROR: Yep.

3 THE COURT: Mr. Healey?

4 PROSPECTIVE JUROR: Yes, sir.

5 THE COURT: And Mr. Nuciforo?

6 PROSPECTIVE JUROR: Yes.

7 THE COURT: Okay.

8 All right, proceed.

9 MR. POVILL: Is this a good time to take a
10 quick break? Before questioning I just need five
11 minutes, if I could.

12 THE COURT: Now or --

13 MR. POVILL: Before I question. I didn't know
14 if now was a better time.

15 THE COURT: We'll see.

16 Go ahead.

17 MS. CHU: Good morning, ladies and
18 gentlemen -- good afternoon. I'm sorry, good afternoon,
19 ladies and gentlemen. How are you guys doing?

20 I hope you guys were paying attention because
21 we are kind of going to go over the same things we spoke
22 about with the other panel about now.

23 So, again, no right or wrong answers, I just
24 want honest answers because I don't want you to think,
25 oh, she wants me to say this, then you say something

Voir Dire - People/Ms. Chu

1 that is not actually what you feel, then we will run
2 into a problem. Okay.

3 Now, we spoke about the different types of
4 evidence, that there's physical evidence, there's
5 pictures, there's stuff you can hold in your hands. But
6 there is also evidence that comes in the form of
7 testimony, meaning that if someone talks to you about
8 what it is that they saw, the question and answer of
9 that person is considered evidence as well.

10 Can you all accept that proposition?

11 Now, I know with the last panel I was talking
12 about how there is -- there are no eyewitnesses to the
13 actual occurrence. You are not going to hear from one
14 witness who's going to say that I was there and I saw
15 the defendant stabbing the victim in this case, okay.

16 And I just want to ask you, can you think of a
17 reason why there might not be a witness to see this
18 happen?

19 Anybody think of a reason?

20 Ms. --

21 MR. WALENSKY: Objection, your Honor.

22 MS. CHU: Miss Sanchez, --

23 THE COURT: I will allow it.

24 MS. CHU: -- can you think of a reason why
25 there might not be a reason to what happened?

Voir Dire - People/Ms. Chu

1 PROSPECTIVE JUROR: No. I mean, no one was
2 around and no one was around.

3 MS. CHU: It was only them two, right?

4 PROSPECTIVE JUROR: Right.

5 MS. CHU: So keeping that in mind -- now, I am
6 not saying that you are not going to hear any evidence
7 that shows, that the defendant did it. In fact, I told
8 the panel before that most of the evidence that's going
9 to prove that the defendant did this crime is going to
10 come from the words that she said to different people.
11 All right.

12 Now, we talked a little bit about the -- you
13 know, someone who would speak to police, someone who was
14 a suspect of a crime speaking to police and the suspect
15 of a crime might be talking to someone else that is not
16 in law enforcement.

17 Do you think the relationship that the person
18 has with who they are talking to would affect the
19 reliability of what they're saying?

20 Do you understand what I am talking about, Mr.
21 Nuciforo?

22 PROSPECTIVE JUROR: You mean the perception
23 would affect how they see things?

24 MS. CHU: The relationship that they have with
25 the person they are talking to.

Voir Dire - People/Ms. Chu

1 PROSPECTIVE JUROR: Potentially.

2 MS. CHU: Mr. O'Connell, you think that would
3 have something to do with it?

4 PROSPECTIVE JUROR: Yes.

5 MS. CHU: Why?

6 PROSPECTIVE JUROR: Why?

7 MS. CHU: Why do you think it would have
8 something to do with whether or not they are truthful or
9 not, to the person they're talking to?

10 PROSPECTIVE JUROR: Because they are separate
11 conversations, usually you're truthful to people that
12 you are conversing with.

13 MS. CHU: People you're closer with?

14 PROSPECTIVE JUROR: Yes.

15 MS. CHU: Now, we had Mr. -- I believe it was
16 Mr. Jenkins on the last panel, he said that, you know --
17 I'm sorry, it was Ms. Webster who said that she would
18 have a problem, she would have a problem accepting the
19 premise that someone who's suspected of a crime would
20 actually want to talk to the police. I believe other
21 people said I can see why they might want to talk to the
22 police.

23 Anybody here of the opinion that there is no
24 way that someone would want to talk to the police if
25 they are a suspect in a crime?

Voir Dire - People/Ms. Chu

1 Anybody who says, you know what, that can't
2 possibly happen?

3 Can you all accept that that possibly could
4 happen?

5 Yes?

6 We talked about, depending on who you're
7 talking to, the best light for the -- you might say
8 things that may be some half truths, maybe some whole
9 truths, maybe some lies. Do you think that is a
10 possibility?

11 Now, do you think you are the kind of persons
12 or jurors who would be able to distinguish between when
13 someone's talking and saying something and being able to
14 figure out what part of their statement might be true,
15 what part might be false and you can compare and
16 contrast that to other evidence?

17 Do you think that you can do that if you're
18 selected in this case?

19 Yes?

20 Anybody here think they can't do it?

21 Ms. Jablonska, how do you feel about that?

22 PROSPECTIVE JUROR: I don't know it.

23 MS. CHU: You don't know it?

24 PROSPECTIVE JUROR: I don't know.

25 MS. CHU: Did you understand? Do you

Voir Dire - People/Ms. Chu

1 understand what I am asking?

2 PROSPECTIVE JUROR: Yes.

3 MS. CHU: You don't know whether you would be
4 able --

5 PROSPECTIVE JUROR: Yeah.

6 MS. CHU: -- to distinguish? You would have a
7 hard time?

8 PROSPECTIVE JUROR: I don't know if I would
9 know if he is telling the truth, who's telling a lie, so
10 I would have to --

11 MS. CHU: You would have to be in the
12 situation in order to decide?

13 PROSPECTIVE JUROR: Yeah.

14 MS. CHU: The only thing that I am asking you,
15 can you keep an open mind and wait and hear all the
16 evidence?

17 PROSPECTIVE JUROR: Of course.

18 MS. CHU: Then you can compare what you learn
19 from this witness proves that what they said here was
20 true, what I learned from this witness says maybe that
21 wasn't so true? Can you do that in this case?

22 PROSPECTIVE JUROR: Yes.

23 MS. CHU: Now, I know, Ms. Slobod --

24 PROSPECTIVE JUROR: I'm not sure.

25 MS. CHU: I know you had mentioned earlier

Voir Dire - People/Ms. Chu

1 that you have somewhat of a language issue. Have you
2 been able to understand what we are talking about here?

3 PROSPECTIVE JUROR: It's problem. Sometimes I
4 understand, sometimes no.

5 MS. CHU: Sometimes no?

6 PROSPECTIVE JUROR: Depends who's speaking.

7 MS. CHU: Now, of everything that has been
8 discussed up to this time, that I am talking to you now,
9 what percentage do you think you understood?

10 PROSPECTIVE JUROR: Depends.

11 MS. CHU: Everything that you've heard so far?

12 PROSPECTIVE JUROR: No.

13 MS. CHU: So would it be like eighty percent,
14 seventy percent, ninety percent?

15 PROSPECTIVE JUROR: Twenty, maybe, percent.

16 MS. CHU: Twenty percent?

17 PROSPECTIVE JUROR: I work with ethnic group.
18 I don't use English in my work.

19 MS. CHU: So you think that your language
20 issues would make it so you wouldn't be a fair juror in
21 this case? Is that what you are trying to say?

22 PROSPECTIVE JUROR: I don't understand.

23 MS. CHU: You don't understand, okay.

24 Thank you very much for being honest.

25 Is there anyone else here who hasn't

Voir Dire - People/Ms. Chu

1 understood what's been going on up to this point?

2 Okay.

3 Now, Mr. Givanchi, are you the kind of person
4 that you could distinguish or compare and contrast all
5 the evidence you hear in this case to decide what parts
6 might be the truth and what parts might be false?

7 PROSPECTIVE JUROR: I believe so.

8 MS. CHU: Ms. Gray, you can do that?

9 PROSPECTIVE JUROR: Yes.

10 MS. CHU: Mr. Healey, will you be able to do
11 that?

12 PROSPECTIVE JUROR: Yes.

13 MS. CHU: Now, we talked about the fact that
14 there's some sort of scientific evidence that you're
15 going to see in this case, there's DNA in this case.
16 You are not actually going to have a videotape of the
17 crime actually happening. I know that we get to watch
18 things, so many things on TV, you get so much of a
19 different vantage point than you would in a real trial.

20 Is there anyone here that says I need that
21 kind of evidence, I can't rely on someone else's word?

22 Some people are, if I wasn't there I can't
23 tell you what happened, no one can tell me what
24 happened?

25 Does anyone here feel as though without that

Voir Dire - People/Ms. Chu

1 type of evidence you would not be able to render a
2 decision in this case?

3 Everybody okay with the fact that we don't
4 have fingerprints, there's no knife, no knife was ever
5 recovered and no videotape of the actual crime?

6 With all the surveillance that goes on, you
7 hear about it on TV, we don't have that here, I am being
8 honest with you from the beginning. I need to know
9 whether or not you would have a problem. Like if you
10 are convinced from other evidence that the defendant was
11 guilty, would you be able to still vote them guilty even
12 though you might want something else?

13 Do you understand what I'm asking, Ms. Dixon?

14 PROSPECTIVE JUROR: I understand.

15 MS. CHU: Are you okay with that?

16 PROSPECTIVE JUROR: Yes.

17 MS. CHU: Anybody here have a problem with
18 what types of evidence you're going to see versus what
19 type you are not going to see in this case?

20 Mr. O'Reilly?

21 PROSPECTIVE JUROR: I mean, it's tough, not
22 having been a juror before, not being in the situation.
23 I mean, I understand everything you are saying. I guess
24 it's kind of a situational thing.

25 MS. CHU: I appreciate that.

Voir Dire - People/Ms. Chu

1 What I am asking, I just don't want you to
2 close your mind, you know what, I couldn't, there wasn't
3 a video, there's no way of telling the truth or not.
4 Then or other people say, you know what, I don't need a
5 videotape, if someone tells me what happened there,
6 someone tells me what happens in the middle, someone
7 tells me what happens after, I take all of that into
8 consideration, you can do that, right?

9 Ms. Fadaka, you're nodding your head. You
10 will be good with that?

11 PROSPECTIVE JUROR: Yes.

12 MS. CHU: How about you, Ms. Clements?

13 PROSPECTIVE JUROR: Yes.

14 MS. CHU: We talked a little about sympathy,
15 you kind of look at the defendant, she's a young woman.
16 Is there anyone here that feels, let's say you're
17 selected as jurors and you listen to all the evidence
18 and all the evidence in the case convinces you that I've
19 done my job and I've proven to you beyond a reasonable
20 doubt that the defendant is guilty. Is there anyone
21 here that's going to go back into the jury room and say,
22 you know what, Ms. Chu did her job, she did what the
23 Judge requires her to but something about her, I feel
24 sorry for her, she reminds me of a friend, she reminds
25 me of a family member?

Voir Dire - People/Ms. Chu

1 Anyone here that thinks that kind of feeling
2 would prevent you from rendering a decision, even if
3 you're convinced beyond a reasonable doubt that she is
4 guilty?

5 Is there anyone here that feels that way, that
6 thinks how they feel about the defendant might affect
7 their ability to render a decision according to the
8 evidence only?

9 Everybody.

10 All right.

11 THE COURT: Thank you, Ms. Chu.

12 MS. CHU: Okay.

13 THE COURT: Go ahead.

14 You gotta go. Come on.

15 MR. POVILL: Good afternoon, ladies and
16 gentlemen.

17 My name is Josh Povill.

18 I apologize. I was requesting five minutes
19 just to use the bathroom, but we'll do it.

20 THE COURT: You want five minutes to go to the
21 bathroom?

22 MR. POVILL: That was all.

23 THE COURT: Go to the bathroom. We'll take a
24 break.

25 MR. POVILL: That's okay.

Voir Dire - Defendant/Mr. Povill

1 THE COURT: Yes.

2 Ladies and gentlemen, at this time we are
3 going to take a recess, five minutes. Step outside.
4 Bring all your belongings with you.

5 MR. POVILL: Thank you, your Honor.

6 THE COURT: Do not discuss the case amongst
7 yourselves or with anyone else.

8 (Whereupon, the panel of prospective jurors
9 exited the courtroom.)

10 THE COURT: All right, same instructions for
11 the other jurors. Take five minutes and we will be
12 right back, all right.

13 (Whereupon, the panel of prospective jurors
14 exited the courtroom.)

15 THE COURT: You may leave. Take your
16 belongings.

17 (Whereupon, a brief recess was held.)

18 COURT OFFICER: Ready for the panel, your
19 Honor?

20 THE COURT: Yes.

21 COURT OFFICER: Panel entering.

22 (Whereupon, the panel of prospective jurors
23 entered the courtroom.)

24 COURT OFFICER: Take the same seats that you
25 were seated in before.

Voir Dire - Defendant/Mr. Povill

1 THE COURT: All right, we will proceed at this
2 time.

3 MR. POVILL: Thank you, your Honor.

4 Good afternoon again, ladies and gentlemen.

5 We've spoken a little bit about burdens,
6 right. The prosecutor spoke about what her burden is
7 here, that she needs to prove Ms. Wisdom guilty beyond a
8 reasonable doubt, and she asked that you not hold her to
9 any higher burden. And I want to talk a little bit
10 about the burden, right, what that means, to prove the
11 guilt.

12 Of paramount concern in our system of justice
13 is the protection of the innocent. That is why the
14 burden is so high. So, we already talked about the fact
15 that the government always has the burden of proof,
16 right, it never shifts, it never moves.

17 Does everybody understand that?

18 Does anybody have a problem with that?

19 I won't be offended.

20 So you can feel free to speak the truth here,
21 that's the only way we get to the answers that we need.

22 And that burden, again, it's an exceedingly
23 high one.

24 MS. CHU: Objection to it being exceedingly
25 high, your Honor.

Voir Dire - Defendant/Mr. Povill

1 MR. POVILL: I won't characterize, your Honor.

2 THE COURT: Do me a favor, don't.

3 MR. POVILL: It's not a mere constitutional
4 formality, though. This is how the system works. This
5 is how we make sure that the innocent don't get
6 punished, and because we all know that's the greatest
7 travesty that can happen. So that is why you must be
8 certain it must be beyond a reasonable doubt before you
9 can convict, okay?

10 It's weird, right, you'll be asked at the end
11 of this to render a verdict but you won't be asked is
12 Ms. Wisdom guilty or innocent. That's not the question
13 that you're going to be asked. You will be asked, is it
14 guilty or not guilty, meaning anything other than guilty
15 beyond any reasonable doubt.

16 Now, if the government hasn't made its case
17 beyond a reasonable doubt, then the system simply is too
18 concerned that she may be innocent to let you convict
19 her.

20 MS. CHU: Objection. Where is this going?

21 THE COURT: Mr. Povill, go on to something
22 else, all right, because the law is something that I
23 will be instructing them on and this has been aired
24 already, so go on to something else.

25 MR. POVILL: Yes, your Honor.

Voir Dire - Defendant/Mr. Povill

1 Let's talk about what you'll learn here.

2 We're all human, right?

3 We all want to know exactly what happened in
4 this instance.

5 Now, that's perfectly reasonable. But know
6 this, you may not know exactly what happened. You may
7 not know everything that you want to know at the end of
8 this trial. I am going to apologize right now for that,
9 but there's nothing I can do about it. It's
10 frustrating, I understand. It's not my job, it's not
11 defense's job to tell you the whole story and I don't
12 have the ability or the resources to do that.

13 MS. CHU: Objection, your Honor. This sounds
14 like an opening.

15 MR. WALENSKY: Mr. Povill.

16 (Whereupon, there was a brief pause in the
17 proceedings.)

18 THE COURT: Objection sustained.

19 Proceed.

20 MR. POVILL: The question that I want to ask
21 you is, can you all appreciate and understand that if
22 you have questions at the end, if you haven't been given
23 all the answers you need to reach your verdict, then you
24 must find the defendant not guilty?

25 MS. CHU: Objection. It's not their burden.

Voir Dire - Defendant/Mr. Povill

1 MR. POVILL: I don't believe I
2 mischaracterized, your Honor.

3 MR. WALENSKY: Mr. Povill.

4 THE COURT: The fact is, ladies and gentlemen,
5 if you have a reasonable doubt, I will define for you,
6 as to the defendant's guilt, you must find him not
7 guilty. If you find that the People have proven his
8 guilt beyond a reasonable doubt, then you must find him
9 guilty. But the fact is, I'll explain to you at the
10 close of the case what reasonable doubt is, okay.

11 Proceed.

12 The next question I have of you, will you all
13 follow the law as I give it to you respecting reasonable
14 doubt?

15 Go on to something else.

16 MR. POVILL: Does anybody have a problem
17 holding the People to that burden, knowing that they --
18 the answers don't come from the defense side
19 necessarily, they come from the government?

20 Does anybody have a problem with that or find
21 that difficult, they're troubled by that?

22 PROSPECTIVE JUROR: I would think my -- I
23 understand it is a one-way system and you have to
24 defend. I also think to myself that if I was put in
25 that situation and I didn't do something, I would have a

Voir Dire - Defendant/Mr. Povill

1 lot to say in that sense. But I understand why you
2 wouldn't because you might say something wrong or
3 something could turn around against you. But I see -- I
4 wouldn't -- I'm not one hundred percent but I would like
5 to see you saying something, defending yourself.

6 MR. POVILL: I understand.

7 While you're sitting in this room and sitting
8 in those chairs the burden is on the government. Ms.
9 Wisdom sits innocent over there, silent and innocent.

10 PROSPECTIVE JUROR: I can see that.

11 THE COURT: Mr. Povill, go on to something
12 else. This has been explored ad nauseam. Go ahead. If
13 you got any questions of this jury, ask.

14 MR. POVILL: Yes.

15 Let's talk about something else.

16 Let's talk about fear.

17 There's going to be a lot of evidence that
18 comes out in this case, I suspect, and one of the things
19 that you'll be asked, likely be asked to consider is
20 whether someone reacts reasonably when they're placed in
21 fear.

22 Now, has everybody in this box been placed in
23 fear at some time in their life? Has anyone never felt
24 fear, real fear?

25 PROSPECTIVE JUROR: Yes.

Voir Dire - Defendant/Mr. Povill

1 MR. POVILL: I know there's a lot of people in
2 this box who have been the victim of crimes and you know
3 that, the fear that I'm talking about.

4 Now, when you feel that -- let's see. Mr.
5 Rossi?

6 PROSPECTIVE JUROR: Yes.

7 MR. POVILL: You were robbed at gunpoint
8 fifteen years ago?

9 PROSPECTIVE JUROR: Yes.

10 MR. POVILL: Do you remember that?

11 PROSPECTIVE JUROR: Yes, I do.

12 MR. POVILL: I'm quite certain you do, yeah.
13 Do you remember how you felt? Do you remember
14 the fear?

15 PROSPECTIVE JUROR: Yes, I do.

16 MR. POVILL: What I'm going to ask is, the
17 Judge will tell you that what you bring back into the
18 jury room is your common sense, it's your common
19 experience, that fear, that's part of it. That's how
20 you judge what's reasonable, right?

21 MS. CHU: Objection, your Honor.

22 THE COURT: Sustained.

23 MR. POVILL: Mr. Healey, you were robbed at
24 gunpoint?

25 PROSPECTIVE JUROR: Yes.

Voir Dire - Defendant/Mr. Povill

1 MR. POVILL: Do you recall how that felt?

2 PROSPECTIVE JUROR: Yes, I do.

3 MR. POVILL: Did you want to react when you
4 were robbed at gunpoint?

5 MS. CHU: Objection, your Honor.

6 THE COURT: Sustained.

7 MR. POVILL: Mr. Givanchi?

8 PROSPECTIVE JUROR: That is correct.

9 MR. POVILL: Feel free to tell me that you
10 don't want to talk about it, but I know you mentioned
11 something happened to you and you were a victim of a
12 crime and I -- I would like to know, if you are able, if
13 you can tell me a little bit more about what happened.

14 PROSPECTIVE JUROR: I was working with another
15 male who was much bigger than I was and that's what --
16 that was what happened. But it was long enough ago to
17 be able to process it.

18 MR. POVILL: I appreciate that.

19 If there's discussion of a sexual assault
20 nature in this case, you think that you will be able to
21 sit and listen to that evidence fairly?

22 PROSPECTIVE JUROR: Absolutely.

23 MR. POVILL: Thank you, Mr. Givanchi, I
24 appreciate it.

25 PROSPECTIVE JUROR: You're welcome.

Voir Dire - Defendant/Mr. Povill

1 MR. POVILL: Ms. Shaffee?

2 PROSPECTIVE JUROR: Yes, sir.

3 MR. POVILL: You said you sat on a civil jury
4 previously, is that correct?

5 PROSPECTIVE JUROR: It was robbery. I don't
6 know if it's civil or not. That's not considered civil,
7 right?

8 MR. POVILL: That is probably a criminal
9 case.

10 PROSPECTIVE JUROR: I made a mistake there.

11 MR. POVILL: And did you reach a verdict?

12 PROSPECTIVE JUROR: Yeah.

13 THE COURT: Don't tell us what your verdict
14 was.

15 PROSPECTIVE JUROR: Yeah, we did.

16 MR. POVILL: Anything about that experience
17 that you feel affects you now today as you sit here?

18 PROSPECTIVE JUROR: No.

19 MR. POVILL: You feel okay about how the
20 system works?

21 PROSPECTIVE JUROR: Sure.

22 MR. POVILL: Thank you.

23 THE COURT: Ms. Shaffee, you mentioned
24 something about the Ramadan fast, is that right?

25 PROSPECTIVE JUROR: Yeah.

Voir Dire - Defendant/Mr. Povill

1 THE COURT: Let me ask you this.

2 Are you still working now?

3 PROSPECTIVE JUROR: No, I'm retired.

4 THE COURT: When you were working, did you
5 fast?

6 PROSPECTIVE JUROR: Yeah.

7 THE COURT: For Ramadan?

8 PROSPECTIVE JUROR: When I was younger.

9 THE COURT: And did you go to work?

10 PROSPECTIVE JUROR: Yes.

11 THE COURT: So?

12 PROSPECTIVE JUROR: When I was younger.

13 THE COURT: So?

14 PROSPECTIVE JUROR: Much.

15 THE COURT: Are you saying --

16 PROSPECTIVE JUROR: It's harder when you get
17 older.

18 THE COURT: Fasting is hard to begin with. I
19 understand.

20 The real question is, is the fasting while
21 being on jury going to interfere with your ability to be
22 fair and impartial?

23 That's the question.

24 PROSPECTIVE JUROR: Well, I don't know. The
25 reason why I ask, because we have to eat like before

Voir Dire - Defendant/Mr. Povill

1 sunrise. It's like fourteen or sixteen hours and we
2 break the fast. We don't eat or drink during the day.

3 THE COURT: Right.

4 PROSPECTIVE JUROR: During the day we are
5 supposed to pray. Also, it's a holy month.

6 THE COURT: I understand that.

7 PROSPECTIVE JUROR: This is why.

8 THE COURT: When you say you have to pray,
9 where would you pray? Would you have to go to a temple,
10 or not?

11 PROSPECTIVE JUROR: No, no, at home. At home.
12 Sometimes you go to the temple but most of the
13 times at home.

14 THE COURT: You understand that you are not
15 going to be --

16 PROSPECTIVE JUROR: I can't fast and come
17 here.

18 THE COURT: You can't fast?

19 PROSPECTIVE JUROR: I can't do that, no.

20 THE COURT: Okay.

21 PROSPECTIVE JUROR: I can't.

22 THE COURT: Do you have any other questions?

23 MR. POVILL: Yes, just one, your Honor.

24 THE COURT: Go ahead.

25 MR. POVILL: Ms. Gabriel, do I have that

Voir Dire - Defendant/Mr. Povill

1 right?

2 PROSPECTIVE JUROR: Yes.

3 MR. POVILL: When you came in a little late, I
4 didn't know what you did for work, ma'am.

5 PROSPECTIVE JUROR: What I did for work? I am
6 a medical assistant.

7 MR. POVILL: Are you still working?

8 PROSPECTIVE JUROR: Yes, I am.

9 MR. POVILL: That's wonderful.

10 Thank you.

11 THE COURT: All right.

12 Thank you.

13 MR. POVILL: Thank you everybody.

14 THE COURT: You know what, ladies and
15 gentlemen, we are going to adjourn at this particular
16 time until Monday, all right, so do not discuss the case
17 amongst yourselves or with anyone else.

18 You don't have to appear tomorrow. Monday be
19 here at ten o'clock, no later, and then at that time
20 we'll finish with the voir dire. So, be here at ten
21 o'clock and do not discuss the case amongst yourselves
22 or with anyone else. Do not visit the place where the
23 alleged crimes occurred. Have no contact with any of
24 the parties involved in this matter. Do not resort to
25 utilizing any digital electronic devices for the purpose

Proceeding

1 of obtaining any information about this case or talking
2 to anybody about this case.

3 So, you are excused. Ten o'clock outside the
4 courtroom. Ten o'clock.

5 Just wait for someone to -- the Court Officer
6 to let you in.

7 You are excused right now, so you can vacate.

8 (Whereupon, the panel of prospective jurors
9 exited the courtroom.)

10 THE COURT: Now, those ladies and gentlemen
11 who are in the audience, you are to return here on
12 Monday at ten o'clock.

13 Do not discuss the case amongst yourselves or
14 with anyone else. Do not visit the place where the
15 alleged crimes occurred. Have no contact with any of
16 the parties involved in this matter. And, again, do not
17 resort to utilizing any electronic digital devices.

18 Now I am going to tell you, I am going to be
19 quite frank with all of you, if you fail to show up on
20 Monday I'll send a marshal out to bring you in, okay.

21 So the fact that we have this delay should not
22 give you any right or excuse not to come here on Monday.

23 Okay.

24 I hope you enjoy the weekend and I hope you
25 are here on Monday.

Proceeding

1 You are excused.

2 COURT OFFICER: Step out.

3 THE COURT: You can step out at this time.

4 THE CLERK: She said you can step out.

5 THE COURT: You can step out at this time.

6 THE CLERK: Step out, sir.

7 SERGEANT: Talk to the Officer outside,
8 please.

9 (Whereupon, the panel of prospective jurors
10 exited the courtroom.)

11 THE COURT: All right, Monday, ten o'clock.

12 MS. CHU: I should anticipate witnesses for
13 Monday afternoon?

14 THE COURT: What?

15 MS. CHU: I should anticipate having witnesses
16 available for Monday afternoon?

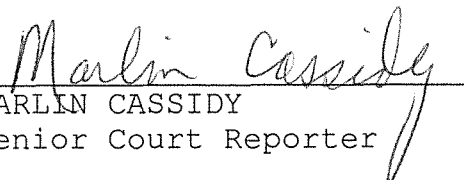
17 THE COURT: If we can get the jury. We only
18 got three.

19 (Whereupon, the trial was adjourned to June
20 30, 2014.)

21 CERTIFIED TO BE A TRUE AND ACCURATE TRANSCRIPT OF
22 THE ORIGINAL STENOGRAPHIC MINUTES TAKEN OF THIS
23 PROCEEDING.

24

25


MARLIN CASSIDY
Senior Court Reporter

1 SUPREME COURT OF THE STATE OF NEW YORK
2 COUNTY OF KINGS: CRIMINAL TERM: PART 2

3 THE PEOPLE OF THE STATE OF NEW YORK,

4 -against-

5 ATARA WISDOM,

6 Defendant.

Indictment No.:
6615/2012
(Trial)

7 Supreme Courthouse
8 320 Jay Street
9 Brooklyn, New York 11201
June 30, 2014

10 B E F O R E:

11 THE HONORABLE ALBERT TOMEI, JUSTICE
12

13 A P P E A R A N C E S:

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- and -
21 JOSHUA POVILL, ESQ.

22
23
24 MARLIN CASSIDY
25 Senior Court Reporter

Proceeding

1 (Whereupon, the following took place in open
2 court:)

3 THE CLERK: Your Honor, this is calendar
4 number one, case on trial, Indictment 6615 of 2012,
5 People versus Atara Wisdom.

6 Defendant is incarcerated, produced, before
7 the Court, present with his attorney, appearances are
8 the same -- with her attorney.

9 THE COURT: There is an application here?

10 MS. CHU: Yes, your Honor.

11 There is a 911 call that we have that was
12 placed by our deceased on November the 29th of 2011.
13 We'd like to have that deemed admissible on our direct
14 case to show --

15 THE COURT: What year was that, 2000 and what?

16 MS. CHU: 2011. November 29th, 2011.

17 It was about 12:00 something in the morning on
18 November 29th. I have a memorandum of law that I
19 prepared.

20 THE COURT: Well, what's the call?

21 MS. CHU: The call, substance of the call,
22 is --

23 THE COURT: Who is it from?

24 MS. CHU: It's from the victim, I got this
25 girl in my house and I don't know what's wrong with her,

Proceeding

1 she's acting all crazy and I want her out of my house.
2 The phone call gets disconnected. Because it's not a
3 landline, it's an cellphone, they are not able to get
4 anything as far as location or where to go, so police
5 are unable to investigate it any further.

6 We have this on his phone records, saying he
7 called 911. At this time we actually have the actual
8 tape, 911 tape, and the People would argue that it is
9 admissible under the present sense impression and the
10 excited utterance exception to the hearsay rule, and we
11 have the memorandum of law that is -- that supports the
12 People's position.

13 THE COURT: What's the response?

14 MR. WALENSKY: Your Honor, there are two
15 prongs to this one, is it admissible under the excited
16 utterance, does the prejudice far outweigh the probative
17 value. During the evening of this call we actually
18 don't know when this man is killed. Time of death was
19 never set, the date itself was never set. We don't know
20 what it refers to, whether it refers to this incident or
21 something else, and so absent any background or
22 testimony, it is just this man calling. We don't know
23 if there's an upsetment, an intervening event, things
24 calm down and something happened.

25 It's significant, there's nothing on the call

Proceeding

1 like look out or ouch or hearing anything, it
2 essentially just cuts off with that and --

3 THE COURT: Do you have the records?

4 MS. CHU: I do have the record.

5 THE COURT: Do the records show --

6 MS. CHU: The cellphone shows that he makes a
7 911 call at a little bit after midnight on November the
8 29th and subsequently, after he makes that 911 call, the
9 phone numbers that are called by my victim's phone are
10 consistent with the defendant's cellphone numbers that
11 she calls. So, we know that there's a transition so --
12 'cause we have a witness that she makes third-party
13 admissions to who says she calls from the victim's phone
14 so when he answers the phone he thinks it's the victim,
15 it's actually the defendant calling him. That is where
16 the third-party admission comes in.

17 We will have --

18 MR. WALENSKY: No.

19 MS. CHU: -- phone records that corroborate
20 that his phone called our witness's phone and then
21 subsequent to that the pattern of phones calls that are
22 made by my victim's phone mirror what the defendant's
23 pattern of phone calls are from her cellphone.

24 MR. WALENSKY: What was said --

25 MS. CHU: In addition to that, your Honor, I'm

Proceeding

1 sorry, the ME will be able to corroborate that the time
2 of death, although they can't pinpoint an exact time,
3 that it's consistent, that November 29th, 2011 is
4 consistent with the manner of death as far as the amount
5 of decay, that the deceased had been dead for quite some
6 time, there's mummification, part of th head and body,
7 he had maggots. Everything is consistent. He had
8 maggots in him.

9 THE COURT: How long was he in the apartment
10 before they discovered him?

11 If we presume that the 911 call was on
12 November 29th, 2011, was when everything occurred, he
13 wasn't found until January 3rd, 2012, what is her
14 admission?

15 MS. CHU: She was living with him and that she
16 was giving him money, he also wanted to have sex with
17 her, she wasn't going to do that, so she basically, in
18 her statements to the police, said that he tried to rape
19 her so she had to defend herself and she stabbed him and
20 then left.

21 THE COURT: Does she give the time or date?

22 MS. CHU: She doesn't say the time or the
23 date. But I know we have family members and the last
24 time that they saw him was around Thanksgiving, that the
25 29th would have been right after that Thanksgiving.

Proceeding

1 MR. WALENSKY: She tells the police in the
2 video statement, the Court will see that, she thinks she
3 woke up at about 2:00 or 3:00 and he's grabbing her,
4 he's trying -- this is when he is assaulting her, around
5 2:00 in the morning, she is not really sure, she's not
6 looking at a watch. We believe that, again, the
7 prejudice far outweighs the probative value of this
8 because we have -- it's just a bald statement, we have
9 nothing else, and there is nothing else on this.

10 As I said, there is no notice of any
11 intervening actions that could have been occurring. It
12 may have stopped, she may not have been crazy at 12:30,
13 stops, goes to sleep and picks up then.

14 THE COURT: I am going to allow it under
15 present sense impression.

16 MR. WALENSKY: Note my exception.

17 THE COURT: Okay.

18 What else? Is that it? Is that it?

19 MS. CHU: That is all for me.

20 THE CLERK: I think we are up to the lawyers.

21 THE COURT: Yes, the lawyers.

22 (Whereupon, there was a brief pause in the
23 proceedings.)

24 MR. WALENSKY: Your Honor, if we have another
25 panel, could I request that you remind them, if there's

Proceeding

1 something personal, that they can come and talk to you,
2 because we had two people talking about rapes in front
3 of everybody and I think it was very uncomfortable.

4 THE COURT: I'll tell them, if they have
5 something they don't want to express in front of the
6 other jurors, that they can.

7 What's the story?

8 THE CLERK: Two out of the three are here.

9 THE COURT: Who's missing?

10 THE CLERK: Number one.

11 THE COURT: Givanchi?

12 THE CLERK: Yes.

13 THE COURT: He's missing?

14 THE CLERK: Yes.

15 THE COURT: Bring them in.

16 I'll fill the box, if he doesn't come in.

17 MS. CHU: We are up to challenges.

18 THE COURT: We didn't do challenges?

19 MS. CHU: We already did the questioning. We
20 already spoke to them.

21 THE COURT: You spoke to them already?

22 MS. CHU: We spoke to them.

23 MR. WALENSKY: Yes.

24 THE COURT: I don't think so.

25 MR. POVILL: Yes, your Honor.

Voir Dire

1 MS. SCHWARTZKOPF: Yes, I have notes from the
2 attorneys.

3 THE CLERK: We are up to the challenges.

4 MS. CHU: I believe co-counsel did the voir
5 dire.

6 THE COURT: I know he did.

7 MS. CHU: That was the second time.

8 MS. SCHWARTZKOPF: He was the last person.
9 We have to do the challenges.

10 THE COURT: What do we have, three?
11 First nine, cause?

12 MS. CHU: Yes, your Honor. Juror number
13 three, Ms. Slobod, I don't believe that she has a full
14 grasp of the English language such that she would be a
15 juror for this case.

16 MR. WALENSKY: I would agree with that, your
17 Honor.

18 THE COURT: She's out for cause.

19 All right, any others?

20 MS. CHU: You said up to nine, right?

21 THE COURT: Yes.

22 MS. CHU: No, I have no others.

23 THE COURT: Cause, defense?

24 MR. WALENSKY: Number one, Mr. Givanchi.

25 THE COURT: What is the cause?

Voir Dire

1 MR. WALENSKY: Sexual assault, and his
2 difficulties with it, and the nature of this case, I
3 mean, he said he was raped by another man. I think he
4 said it was very traumatic.

5 MS. CHU: I would consent to that, your
6 Honor.

7 MR. WALENSKY: Consent.

8 THE COURT: All right, he is out for cause.

9 THE CLERK: Is that on consent?

10 MR. WALENSKY: Consent.

11 MS. CHU: Yes.

12 THE COURT: Any others?

13 MR. WALENSKY: Number four, Ms. Shaffee, she
14 couldn't fast and sit, she is getting old, it's hard for
15 her to concentrate and do it.

16 MS. CHU: I would consent.

17 MR. WALENSKY: Number four.

18 She was quite clear, she wouldn't be able to
19 do it.

20 THE COURT: She said she's Muslim, right?

21 MS. SCHWARTZKOPF: Cannot fast and come to
22 court.

23 THE COURT: She is out for cause.

24 Any others?

25 MR. WALENSKY: No, your Honor.

Voir Dire

1 THE COURT: All right.

2 Perempt?

3 MS. CHU: Up to nine?

4 THE COURT: Well, it's not up to nine.

5 It's --

6 MS. SCHWARTZKOPF: Yes.

7 THE COURT: I'm sorry, yes.

8 MS. CHU: No perempts by the People.

9 THE COURT: Defense?

10 MR. WALENSKY: Number seven.

11 THE COURT: Nuciforo?

12 MR. WALENSKY: Nuciforo, yes.

13 THE COURT: Who else?

14 MR. WALENSKY: Number eight, Mr. Healey.

15 And number nine, Mr. O'Connell.

16 THE CLERK: Your Honor, juror number four is

17 Cleo Gray.

18 Juror five is Elizabeth Sanchez.

19 THE COURT: Hold on one minute. Hold on.

20 (Whereupon, there was a brief pause in the

21 proceedings.)

22 THE COURT: Sanchez is five?

23 THE CLERK: Yes.

24 THE COURT: Okay.

25 Is that it?

Voir Dire

1 THE CLERK: Juror number six is Margaret
2 Gabriel.

3 THE COURT: She's number twelve.

4 THE CLERK: Seat six is now juror six, Judge.

5 MS. SCHWARTZKOPF: Margaret Gabriel is in seat
6 six.

7 THE CLERK: She's also juror six.

8 THE COURT: So she's selected.

9 THE CLERK: So the next six, Olibris, Perrier,
10 Rossi, Crockett.

11 MS. CHU: Dixon and O'Reilly.

12 THE COURT: Dixon and O'Reilly.

13 Cause?

14 MS. CHU: Your Honor, I would challenge number
15 ten for cause. She said something about she's on
16 vacation right now, she has to return on the 1st. She
17 said that she didn't -- she says she thought it would be
18 a problem for her to be out of work.

19 THE COURT: Denied.

20 Cause?

21 MR. WALENSKY: We're through sixteen?

22 MS. SCHWARTZKOPF: Fifteen.

23 MR. WALENSKY: Nothing for cause.

24 THE COURT: Perempt?

25 MS. CHU: People challenge juror number ten.

Voir Dire

1 Juror number fourteen.

2 THE COURT: Dixon?

3 MS. CHU: Yes.

4 And that's it.

5 THE COURT: Defendant?

6 MR. WALENSKY: Number eleven.

7 Number --

8 THE CLERK: Whoa.

9 THE COURT: Go ahead.

10 MR. WALENSKY: Number fifteen.

11 THE COURT: Is that it?

12 MR. WALENSKY: One moment.

13 (Whereupon, there was a brief pause in the
14 proceedings.)

15 MR. WALENSKY: That's it, your Honor.

16 THE CLERK: Juror number seven is Samuel
17 Rossi.

18 Juror number eight is Jonathan Crockett.

19 THE COURT: All right.

20 Sixteen -- sixteen, seventeen and nineteen,
21 cause?

22 MS. CHU: None for the People.

23 THE COURT: Cause?

24 MR. WALENSKY: I'm not sure about Ms.
25 Jablonska, language.

Voir Dire

1 THE COURT: Not sure why?

2 MR. WALENSKY: I don't know that she has a
3 good enough facility of language.

4 THE COURT: Denied.

5 Perempt?

6 MS. CHU: People challenge juror number
7 twenty.

8 MS. SCHWARTZKOPF: We are not up to twenty.

9 THE CLERK: We are not up to twenty.

10 MS. CHU: Oops.

11 THE CLERK: Sixteen to nineteen.

12 MS. CHU: Up to nineteen, no.

13 THE COURT: Perempt?

14 MR. WALENSKY: Number sixteen.

15 Number --

16 THE COURT: Who? Number sixteen?

17 MR. WALENSKY: Yes.

18 Number eighteen.

19 That's all.

20 THE CLERK: Juror number nine is Deanna
21 Clements.

22 Juror ten is Blessing Fadaka.

23 THE COURT: Twenty, cause?

24 MS. CHU: No.

25 THE COURT: Cause?

Voir Dire

1 MR. WALENSKY: No.

2 THE COURT: Perempt?

3 MS. CHU: People challenge.

4 THE CLERK: So far the People have used a
5 total of eleven perempts, the defense fourteen.

6 THE COURT: How many did the D.A. use?

7 MS. CHU: Just this round, Judge?

8 MS. SCHWARTZKOPF: Three for the People, seven
9 for defense.

10 THE CLERK: I'm doing it cumulatively.

11 THE COURT: Seven for the defense?

12 MS. SCHWARTZKOPF: Yes.

13 THE CLERK: But I do it cumulatively.

14 THE COURT: I am just asking, that's all.
15 Let's go bring them in.

16 (Whereupon, there was a brief pause in the
17 proceedings.)

18 (Whereupon, the panel of prospective jurors
19 entered the courtroom.)

20 THE COURT: Have a seat in the first two rows,
21 please.

22 THE CLERK: Did someone bring a child?

23 What is your name, ma'am?

24 PROSPECTIVE JUROR: Blessing.

25 THE CLERK: Is that your child?

Voir Dire

1 PROSPECTIVE JUROR: My babysitter didn't show
2 up, she's out of town.

3 THE COURT: Only those that were in the box.
4 Only those who were in the box, please.

5 (Whereupon, the panel of prospective jurors
6 exited the courtroom.)

7 THE CLERK: Were you seated here?

8 PROSPECTIVE JUROR: Cleo Gray.

9 THE CLERK: Okay.

10 Ma'am, you can have a seat.

11 Okay, if you hear your name called, ladies and
12 gentlemen, that means you have been selected to serve as
13 a juror. If do you not hear your name called, you are
14 excused with the thanks of the Court. Go back down to
15 the second floor, Central Jury, if you don't hear your
16 name called. If you hear your name called please say
17 "here" or "present."

18 Juror number four will be Cleo Gray.

19 Say "here" or "present."

20 PROSPECTIVE JUROR: Here.

21 THE CLERK: Juror number five, Elizabeth
22 Sanchez.

23 PROSPECTIVE JUROR: Here.

24 THE CLERK: Juror number six, Margaret
25 Gabriel.

Voir Dire

1 PROSPECTIVE JUROR: Yes.

2 THE CLERK: Juror number seven, Samuel Rossi.

3 PROSPECTIVE JUROR: Here.

4 THE CLERK: Juror number eight, Jonathan
5 Crockett.

6 PROSPECTIVE JUROR: Here.

7 THE CLERK: Juror number nine, Deanna
8 Clements.

9 PROSPECTIVE JUROR: Here.

10 THE CLERK: And juror number ten, Blessing
11 Fadaka.

12 PROSPECTIVE JUROR: Here.

13 THE CLERK: The rest of you can return to
14 Central Jury, if you didn't hear your name called.

15 (Whereupon, the panel of prospective jurors
16 exited the courtroom.)

17 THE COURT: Come on up.

18 Ms. Blessing, you are excused.

19 How many? We have nine now?

20 THE CLERK: Yes.

21 (Whereupon, the prospective juror exited the
22 courtroom.)

23 THE CLERK: All right.

24 Will the six of you please rise and raise your
25 right hand.

Voir Dire

1 Do you and each of you sincerely and solemnly
2 swear or affirm that you will try this case in a just
3 and impartial manner, to the best of your judgment, and
4 you will render a verdict according to the law and
5 evidence?

6 What is your response?

7 (Whereupon, the jurors responded.)

8 THE CLERK: Please see the Court Officer.

9 COURT OFFICER: Step this way.

10 (Whereupon, the jurors exited the courtroom.)

11 THE COURT: Get the rest of them. Please have
12 them seated on the right.

13 COURT OFFICER: Panel entering.

14 (Whereupon, the panel of prospective jurors
15 entered the courtroom.)

16 THE COURT: Sit on the right side, please.

17 Thank you.

18 Who has a child?

19 What is your name, ma'am?

20 PROSPECTIVE JUROR: Ann Osibodu,

21 O-S-I-B-O-D-U.

22 THE COURT: Why did you bring your child?

23 PROSPECTIVE JUROR: Because I have no
24 babysitter, nobody to watch him for me.

25 THE CLERK: First name?

Voir Dire

1 PROSPECTIVE JUROR: Ann.

2 THE COURT: You are excused, ma'am. Second
3 floor, Central Jury.

4 You are excused. Take your child with you, go
5 down to the second floor.

6 PROSPECTIVE JUROR: Thank you, sir.

7 THE COURT: Fill the box.

8 THE CLERK: Seat number one is Harris Edelman.

9 PROSPECTIVE JUROR: Edelman (pronunciation).

10 THE CLERK: E-D-E-L-M-A-N.

11 Seat two, is Tinnel (phonetic) Herald.

12 First name Tinnel, Herald, H-E-R-A-L-D-O, is
13 her last name.

14 Seat three is Adrian (phonetic) Yorker,
15 Y-O-R-K-E-R.

16 PROSPECTIVE JUROR: Here.

17 Seat four is Ilia (phonetic) Yudin.

18 PROSPECTIVE JUROR: Here.

19 THE CLERK: Y-U-D-I-N.

20 Seat five is Brady Clark, C-L-A-R-K.

21 PROSPECTIVE JUROR: Present.

22 THE CLERK: Seat six is Rebecca Mamer.

23 PROSPECTIVE JUROR: Here.

24 THE CLERK: M-A-M-E-R.

25 Seat seven is Renee (phonetic) Hernandez.

Voir Dire

1 PROSPECTIVE JUROR: Here.

2 THE CLERK: H-E-R-N-A-N-D-E-Z.

3 Seat eight is Olusegun, O-L-U-S-E-G-U-N, last
4 name is Adedeji, A-D-E-D-E-J-I.

5 Seat nine is Elsie Comer, C-O-M-E-R.

6 PROSPECTIVE JUROR: Here.

7 THE CLERK: And seat ten is Jaweed (phonetic)
8 Ahmed.

9 PROSPECTIVE JUROR: Here.

10 THE CLERK: A-H-M-E-D.

11 THE COURT: Mr. Edelman, your neighborhood?

12 PROSPECTIVE JUROR: Edelman (pronunciation).

13 THE COURT: Edelman, I'm sorry.

14 PROSPECTIVE JUROR: Greenpoint, Brooklyn.

15 THE COURT: Ms. Herald?

16 PROSPECTIVE JUROR: East Flatbush.

17 THE COURT: Mr. Yorker?

18 PROSPECTIVE JUROR: Bay Ridge.

19 THE COURT: Mr. Yudin?

20 PROSPECTIVE JUROR: Homecrest.

21 THE COURT: Homecrest.

22 And Mr. Clark?

23 PROSPECTIVE JUROR: Prospect Heights.

24 THE COURT: Ms. Mamer?

25 PROSPECTIVE JUROR: Greenpoint.

Voir Dire

1 THE COURT: Mr. Ahmed?

2 PROSPECTIVE JUROR: Sheepshead Bay.

3 THE COURT: And Ms. Comer?

4 PROSPECTIVE JUROR: East New York.

5 THE COURT: And Mr. Adedeji?

6 PROSPECTIVE JUROR: Bushwick.

7 THE COURT: Bushwick?

8 PROSPECTIVE JUROR: Yes.

9 THE COURT: And Mr. Hernandez?

10 PROSPECTIVE JUROR: Bensonhurst.

11 THE COURT: Bensonhurst, all right.

12 First row, any of you ladies and gentlemen
13 familiar with the crime scene area, 832 Bushwick Avenue?

14 Second row, anyone?

15 Mr. Edelman, married --

16 MS. CHU: Your Honor, I'm sorry, juror five
17 raised their hand.

18 THE COURT: Mr. Clark, you are familiar with
19 the area?

20 PROSPECTIVE JUROR: Some friends lived out
21 that way, Stockholm, Bushwick.

22 THE COURT: All right.

23 Thank you.

24 Mr. Edelman, married, single, separated,
25 divorced?

Voir Dire

1 PROSPECTIVE JUROR: Unmarried.

2 THE COURT: You're married?

3 PROSPECTIVE JUROR: Unmarried.

4 THE COURT: You are not married?

5 PROSPECTIVE JUROR: Not married.

6 THE COURT: Single?

7 PROSPECTIVE JUROR: Well, I'm not married. We

8 have --

9 THE COURT: You have a relationship?

10 PROSPECTIVE JUROR: I have relations.

11 THE COURT: Are you in a relationship now?

12 That's my question.

13 PROSPECTIVE JUROR: How would that affect --

14 THE COURT: Because if you're in a relation,
15 then I'd like to know what your partner does or doesn't
16 do or whatever.

17 PROSPECTIVE JUROR: I'm in a relationship.

18 THE COURT: Thank you.

19 So, okay.

20 And your occupation?

21 PROSPECTIVE JUROR: Computer science.

22 THE COURT: And your partner's?

23 PROSPECTIVE JUROR: Merchandising.

24 THE COURT: Thank you.

25 Ms. Herald?

Voir Dire

1 PROSPECTIVE JUROR: I'm single.

2 THE COURT: What kind of work do you do?

3 PROSPECTIVE JUROR: I'm a file clerk.

4 THE COURT: You have to speak up.

5 PROSPECTIVE JUROR: File clerk.

6 THE COURT: Thank you very much.

7 Mr. Yorker?

8 PROSPECTIVE JUROR: Married.

9 THE COURT: Your occupation?

10 PROSPECTIVE JUROR: Unemployed. Stay-at-home
11 dad.

12 THE COURT: What did you do when you worked?

13 PROSPECTIVE JUROR: I did -- I worked for
14 1-800-Got Junk. I removed items from businesses and
15 homes.

16 THE COURT: What exactly?

17 PROSPECTIVE JUROR: I remove unwanted items.
18 Like a moving person, manual labor.

19 THE COURT: And your spouse?

20 PROSPECTIVE JUROR: She's a director for an ad
21 agency.

22 THE COURT: Okay.

23 Mr. Yudin?

24 PROSPECTIVE JUROR: Yes.

25 THE COURT: Married, single, separated,

Voir Dire

1 divorced?

2 PROSPECTIVE JUROR: Married.

3 THE COURT: Your occupation?

4 PROSPECTIVE JUROR: I work for the New York
5 Times. I'm a computer person there.

6 THE COURT: Okay.

7 And your spouse?

8 PROSPECTIVE JUROR: She's not employed
9 currently.

10 THE COURT: What did she do when she worked?

11 PROSPECTIVE JUROR: Several -- various things,
12 including writing, reporting for a local newspaper,
13 doing computers.

14 THE COURT: All right, thank you.

15 Mr. Clark?

16 PROSPECTIVE JUROR: I had a relationship but
17 not married.

18 THE COURT: And your occupation?

19 PROSPECTIVE JUROR: I work in music publishing
20 and licensing.

21 THE COURT: What do you do?

22 PROSPECTIVE JUROR: AR guy, sign bands, help
23 them with their legal contracts, stuff like that.

24 THE COURT: You sign bands, you said?

25 PROSPECTIVE JUROR: Yeah, for a publishing

Voir Dire

1 company, music publishing.

2 THE COURT: Are you an agent?

3 PROSPECTIVE JUROR: AR guy.

4 THE COURT: Music agent?

5 PROSPECTIVE JUROR: Essentially.

6 THE COURT: Okay.

7 And your partner?

8 PROSPECTIVE JUROR: She's a director for a
9 digital -- advertising digital media company.

10 THE COURT: She's in advertising, you said?

11 PROSPECTIVE JUROR: Yes.

12 THE COURT: Thank you.

13 Ms. Mamer?

14 PROSPECTIVE JUROR: Engaged.

15 THE COURT: Okay.

16 And your occupation?

17 PROSPECTIVE JUROR: I'm a bartender.

18 THE COURT: Okay.

19 And you have a significant other?

20 PROSPECTIVE JUROR: He does film related
21 contract work, mainly screenwriting research. He's
22 associate producing a film right now.

23 THE COURT: Indie?

24 PROSPECTIVE JUROR: It's an IMAX movie.

25 THE COURT: Oh.

Voir Dire

1 Thank you.

2 Mr. Ahmed?

3 PROSPECTIVE JUROR: Married.

4 THE COURT: Occupation?

5 PROSPECTIVE JUROR: Dietician.

6 THE COURT: And your spouse?

7 PROSPECTIVE JUROR: She's a stay-at-home mom
8 at this time.

9 THE COURT: Okay.

10 Did she work at all?

11 PROSPECTIVE JUROR: Yes, but not in this
12 country. She just came a few years ago.

13 THE COURT: Ms. Comer?

14 PROSPECTIVE JUROR: I'm a nurse.

15 THE COURT: Married, single?

16 PROSPECTIVE JUROR: Single.

17 THE COURT: Single.

18 You're an R.N.?

19 PROSPECTIVE JUROR: LPN.

20 THE COURT: Thank you very much.

21 And Mr. Adedeji.

22 PROSPECTIVE JUROR: Adedeji (pronunciation.)

23 THE COURT: Adedeji, okay.

24 Are you married?

25 PROSPECTIVE JUROR: Married.

Voir Dire

1 THE COURT: And your occupation?

2 PROSPECTIVE JUROR: Attorney.

3 THE COURT: Excuse me?

4 PROSPECTIVE JUROR: Attorney.

5 THE COURT: You're an attorney?

6 PROSPECTIVE JUROR: Yes, your Honor.

7 THE COURT: What kind of law do you practice?

8 PROSPECTIVE JUROR: Essentially, civil.

9 THE COURT: Civil?

10 PROSPECTIVE JUROR: Yes.

11 THE COURT: And your spouse?

12 PROSPECTIVE JUROR: Physical therapist.

13 MS. CHU: I'm sorry?

14 PROSPECTIVE JUROR: Physical therapist.

15 MS. CHU: Physical therapist.

16 THE COURT: Physical therapist, I'm sorry.

17 Mr. Hernandez?

18 PROSPECTIVE JUROR: Engaged.

19 THE COURT: Okay.

20 And your occupation?

21 PROSPECTIVE JUROR: Handyman.

22 THE COURT: All right.

23 And your significant other?

24 PROSPECTIVE JUROR: Customer service.

25 THE COURT: What?

Voir Dire

1 PROSPECTIVE JUROR: She's customer service.

2 THE COURT: Customer service.

3 First row, any of you ladies and gentlemen
4 ever serve on a jury before?

5 Second row, anyone?

6 Yes, Ms. Comer?

7 PROSPECTIVE JUROR: Yes.

8 THE COURT: What kind of jury were you on?

9 PROSPECTIVE JUROR: Civil. I sat on a civil
10 case.

11 THE COURT: Okay.

12 First row, any of you ladies and gentlemen
13 ever been the victim of a crime, or someone close to
14 you?

15 All right, I will start with Mr. Edelman.

16 PROSPECTIVE JUROR: I was mugged at
17 knifepoint.

18 THE COURT: You were robbed when?

19 PROSPECTIVE JUROR: 1985, late '80s, New York
20 City.

21 THE COURT: You were robbed at knifepoint?

22 PROSPECTIVE JUROR: My motorcycle has been
23 stolen twice. Different motorcycles, not the same one.
24 Twice.

25 THE COURT: So you had two --

Voir Dire

1 PROSPECTIVE JUROR: Two motorcycles, two
2 different motorcycles, two different occasions.

3 THE COURT: Okay.

4 Anything else?

5 PROSPECTIVE JUROR: My brother was mugged.

6 THE COURT: Your mother was robbed?

7 PROSPECTIVE JUROR: Robbed.

8 THE COURT: Was that at knifepoint?

9 PROSPECTIVE JUROR: I should differentiate. I
10 don't know the difference between mugged and robbed.

11 THE COURT: There is no such legal term as
12 "mugged."

13 PROSPECTIVE JUROR: I'm not a lawyer.

14 THE COURT: Property taken by force?

15 PROSPECTIVE JUROR: Yes.

16 THE COURT: Then it's robbery.

17 PROSPECTIVE JUROR: Then a robbery. Property
18 taken from me by force, from my brother as well,
19 skateboard, I think, and bicycle.

20 THE COURT: Was a weapon involved?

21 PROSPECTIVE JUROR: Yes, knife. In every
22 occasion.

23 THE COURT: Anything else?

24 PROSPECTIVE JUROR: My uncle was burglarized
25 for sure twice, as were my parents.

Voir Dire

1 THE COURT: They were home?

2 PROSPECTIVE JUROR: They weren't home. And
3 stuff was taken.

4 THE COURT: Were all of these reported?
5 Were yours reported?

6 PROSPECTIVE JUROR: Mine, the motorcycle
7 thefts, for sure. It's the last five, ten years. I was
8 robbed as a kid growing up in New York City. I don't
9 even know, I mean --

10 THE COURT: You were a kid?

11 PROSPECTIVE JUROR: Yeah, yeah.

12 THE COURT: How old?

13 PROSPECTIVE JUROR: Like ten to thirteen.

14 THE COURT: Probably didn't report it.

15 PROSPECTIVE JUROR: I mean, I don't recall.
16 But for sure, I mean, it was in the '80s in New York
17 City.

18 THE COURT: All right, thank you.

19 PROSPECTIVE JUROR: You're welcome.

20 THE COURT: Anyone else?

21 Just raise your hand.

22 Mr. Yorker?

23 PROSPECTIVE JUROR: My stepbrother's son was
24 shaken to death by a non-family member.

25 THE COURT: It's called shaken baby syndrome?

Voir Dire

1 PROSPECTIVE JUROR: Yeah.

2 THE COURT: What happened to your
3 stepbrother?

4 PROSPECTIVE JUROR: The person who did it is
5 still in jail.

6 THE COURT: I mean, the --
7 So he went to trial or pled guilty?

8 PROSPECTIVE JUROR: My stepbrother didn't do
9 it. He had broken up with the --

10 THE COURT: The person that did.

11 PROSPECTIVE JUROR: The person that did it is
12 currently in jail.

13 THE COURT: Okay.

14 Who else raised their hand?

15 Mr. Clark?

16 PROSPECTIVE JUROR: My father was robbed at
17 gunpoint in New York, late '80s.

18 THE COURT: Anything else?

19 PROSPECTIVE JUROR: And I had a close friend
20 who was a victim of a hate crime in Bushwick, actually.

21 THE COURT: Assaulted or what?

22 PROSPECTIVE JUROR: He was beaten close to
23 death.

24 THE COURT: Was a weapon involved?

25 PROSPECTIVE JUROR: Just hands.

Voir Dire

1 THE COURT: Fists?

2 PROSPECTIVE JUROR: Yes.

3 THE COURT: More than one person?

4 PROSPECTIVE JUROR: Yes.

5 THE COURT: Okay.

6 Who else?

7 Ms. Mamer?

8 PROSPECTIVE JUROR: My brother was jumped and
9 beaten pretty badly.

10 It was part of like a string of incidents in
11 Seattle. I think they caught some of the guys but not
12 all of them.

13 THE COURT: Was he injured seriously?

14 PROSPECTIVE JUROR: Yeah. They broke his eye
15 socket. He was kind of unrecognizable.

16 THE COURT: Sorry about that.

17 PROSPECTIVE JUROR: Also, I was assaulted by
18 an ex-boyfriend about five years ago.

19 THE COURT: Was he arrested?

20 PROSPECTIVE JUROR: No. I didn't report it.

21 THE COURT: Why?

22 PROSPECTIVE JUROR: We were alone in his
23 apartment, I didn't have proof, I didn't want to go
24 through it.

25 THE COURT: Were you injured?

Voir Dire

1 PROSPECTIVE JUROR: Not seriously. Pretty
2 bruised. I fought him off before it got pretty bad.

3 THE COURT: Did the police come?

4 PROSPECTIVE JUROR: I'm sorry?

5 THE COURT: Did the police come?

6 PROSPECTIVE JUROR: No.

7 THE COURT: Anyone else?

8 Second row, been the victim of a crime or
9 someone close to you?

10 Yes, Mr. Adedeji?

11 PROSPECTIVE JUROR: Close family friend was
12 just recently the victim of a carjacking.

13 THE COURT: Close friend of yours?

14 PROSPECTIVE JUROR: Yes.

15 THE COURT: He was the victim of a carjacking?

16 PROSPECTIVE JUROR: Yes.

17 THE COURT: Was he injured, or she?

18 PROSPECTIVE JUROR: She wasn't injured. She
19 managed to escape the perpetrator.

20 THE COURT: Anyone else?

21 First row, any of you ladies and gentlemen
22 ever accused of, arrested for, or convicted of a crime,
23 or someone close to you?

24 Mr. Yorker?

25 PROSPECTIVE JUROR: I was smoking weed on the

Voir Dire

1 Lower East Side and I was arrested.

2 THE COURT: So you were arrested or were you
3 given a summons?

4 PROSPECTIVE JUROR: I was arrested. I did one
5 day community service.

6 THE COURT: Thank you.

7 Anyone else?

8 Mr. Clark?

9 PROSPECTIVE JUROR: I got an open container
10 and paid the ticket.

11 THE COURT: Was that beer?

12 PROSPECTIVE JUROR: Yeah.

13 THE COURT: Anyone else?

14 Mr. Hernandez?

15 PROSPECTIVE JUROR: My ex-wife sent me to
16 jail.

17 THE COURT: Your ex-wife is what?

18 PROSPECTIVE JUROR: Sent me to jail.

19 THE COURT: She is in jail?

20 PROSPECTIVE JUROR: No, she sent me to jail.

21 THE COURT: Sent you to jail?

22 PROSPECTIVE JUROR: Yes.

23 THE COURT: Was it domestic violence?

24 PROSPECTIVE JUROR: Yes.

25 THE COURT: What happened?

Voir Dire

1 I mean, when she reported this to the police.

2 PROSPECTIVE JUROR: She reported to the police

3 but --

4 THE COURT: Then what happened?

5 PROSPECTIVE JUROR: Obviously they believed

6 her, not me.

7 THE COURT: So then what happened? Did you --

8 PROSPECTIVE JUROR: I went to court.

9 THE COURT: How long did you go to jail for?

10 PROSPECTIVE JUROR: Two days. Then I did

11 anger management.

12 THE COURT: Community service, anger

13 management?

14 PROSPECTIVE JUROR: Yes, pay a fine.

15 THE COURT: Okay.

16 You going to hold it against anybody in this

17 case, the police, D.A.?

18 PROSPECTIVE JUROR: No.

19 THE COURT: Okay.

20 First row, any of you ladies and gentlemen

21 related to, friendly, interact with any attorneys or law

22 enforcement agents?

23 Mr. Edelman?

24 PROSPECTIVE JUROR: I have close friends and

25 family that are attorneys, including a U.S. attorney,

Voir Dire

1 A.D.A. in Suffolk County, married to a police officer,
2 married to an attorney in New York City. My cousin is
3 an attorney. My uncle was a New York City police
4 officer, he's eighty-four years old now so he's retired
5 almost forty years but he was a New York City officer in
6 Brooklyn. And I have friends, of course, that are
7 attorneys as well.

8 THE COURT: Who else?

9 Ms. Herald?

10 PROSPECTIVE JUROR: I work for a law firm.

11 THE COURT: What kind of law firm?

12 PROSPECTIVE JUROR: Corporate law.

13 THE COURT: Okay.

14 Who else?

15 Mr. Yorker.

16 PROSPECTIVE JUROR: I have a bunch of friends
17 that are either lawyers or police officers through the
18 dart leagues that I play in the City and Brooklyn, an
19 acquaintances that actually works right here on the
20 floor.

21 THE COURT: As a Court Officer?

22 PROSPECTIVE JUROR: Yeah.

23 THE COURT: Okay.

24 Who else?

25 Mr. Clark?

Voir Dire

1 PROSPECTIVE JUROR: I have various members of
2 my family in the Armed Forces.

3 THE COURT: In the Armed Forces?

4 PROSPECTIVE JUROR: Yes.

5 THE COURT: I am talking about law
6 enforcement.

7 PROSPECTIVE JUROR: As part of my job I work
8 with our legal team, contract law, licensing agreements,
9 signing bands.

10 THE COURT: You socialize with any of these
11 attorneys?

12 PROSPECTIVE JUROR: Yes.

13 THE COURT: Who else?

14 Ms. Mamer?

15 PROSPECTIVE JUROR: I have a good friend who
16 was working with the 7th Precinct. He is in Manhattan,
17 the detective squad.

18 My fiancée used to share an apartment with him
19 and --

20 THE COURT: A good friend is in the Manhattan
21 detective squad and what was the last thing?

22 PROSPECTIVE JUROR: My fiancée used to share
23 an apartment with him.

24 THE COURT: Who? Your fiancée?

25 PROSPECTIVE JUROR: Yes.

Voir Dire

1 THE COURT: Okay.

2 Who else? Anyone else?

3 Mr. Adedeji?

4 PROSPECTIVE JUROR: Aside from myself, I have
5 a close relationship with an attorney in general
6 practice.

7 THE COURT: You have a general practice?

8 PROSPECTIVE JUROR: I work with somebody also
9 in general practice.

10 THE COURT: Okay.

11 Do you have a partner or you share an office?

12 PROSPECTIVE JUROR: Personally I'm by myself,
13 solo.

14 THE COURT: But you have a friend who's an
15 attorney?

16 PROSPECTIVE JUROR: Yes. General
17 practitioner.

18 THE COURT: Okay.

19 First row, can you be fair and impartial in
20 this case?

21 Mr. Edelman?

22 PROSPECTIVE JUROR: Yes.

23 THE COURT: Ms. Herald?

24 PROSPECTIVE JUROR: Yes.

25 THE COURT: Mr. Yorker?

Voir Dire

1 PROSPECTIVE JUROR: Yes.

2 THE COURT: Mr. Yudin?

3 PROSPECTIVE JUROR: Yes.

4 THE COURT: Mr. Clark?

5 PROSPECTIVE JUROR: I'm not sure.

6 THE COURT: Why not?

7 PROSPECTIVE JUROR: I have some -- well, after
8 seeing last week, I have some issues with the lack of
9 evidence that the People talked about. We can talk
10 about that later.

11 THE COURT: You have to talk about it now.

12 There is no evidence yet.

13 PROSPECTIVE JUROR: Right.

14 THE COURT: There is no evidence in the sense
15 that you haven't heard anything.

16 PROSPECTIVE JUROR: Well, they -- they have
17 kind of been mentioning that there's no evidence.

18 THE COURT: There is evidence going to be
19 presented by the People but it's not necessarily in the
20 form that you might want. Like I don't know what you're
21 looking for, but the fact is that you don't know
22 anything about this case right now.

23 PROSPECTIVE JUROR: Okay.

24 THE COURT: Other than not knowing anything
25 about this case, how have you arrived at an opinion?

Voir Dire

1 PROSPECTIVE JUROR: From viewing the
2 interviews last week.

3 THE COURT: What are you expecting? What
4 would you be expecting, scientific evidence, forensic
5 evidence? What?

6 PROSPECTIVE JUROR: As part of my work I do a
7 lot of disputes between publishing companies and, you
8 know, there's always contracts involved, signed
9 documents, and there's always proof of who's --

10 THE COURT: That's something that -- and you
11 have to determine whether those documents meet your
12 requirements, is that right?

13 PROSPECTIVE JUROR: That's correct.

14 THE COURT: So that is what you would have to
15 do here in the same respect, you would have to determine
16 whether the People have proven beyond a reasonable doubt
17 the evidence that they presented.

18 PROSPECTIVE JUROR: Okay.

19 THE COURT: Can you do that?

20 PROSPECTIVE JUROR: I think so, yes.

21 THE COURT: Can you do it fairly and
22 impartially?

23 PROSPECTIVE JUROR: Yes.

24 THE COURT: That's the question.

25 Okay.

Voir Dire - People/Ms. Chu

1 Ms. Mamer?

2 PROSPECTIVE JUROR: Yes.

3 THE COURT: Mr. Ahmed?

4 PROSPECTIVE JUROR: Yes.

5 THE COURT: And Ms. Comer?

6 PROSPECTIVE JUROR: Yes.

7 THE COURT: And Mr. Audige?

8 PROSPECTIVE JUROR: Yes.

9 THE COURT: And Mr. Hernandez?

10 PROSPECTIVE JUROR: Yes.

11 THE COURT: Go ahead, Ms. Chu.

12 MS. CHU: Thank you.

13 Good morning, ladies and gentlemen.

14 I see that at least Mr. Clark was paying
15 attention last week when we were talking up here. I
16 hope you kind of remember the things we spoke about.
17 The Judge said it perfectly, there is going to be other
18 kinds of evidence. You are going to hear, for example,
19 Ms. Mamer, you said you had an incident with an
20 ex-boyfriend. You said you didn't press charges because
21 you didn't have anybody that was there besides you and
22 the other person.

23 In this case there are other things, you just
24 won't have someone that says I saw this person do this
25 to this other person, okay.

Voir Dire - People/Ms. Chu

1 I know that, Mr. Clark, you said that you have
2 somewhat of a problem with that.

3 Let's say, for example, you're selected as a
4 juror, you heard all the evidence and the evidence that
5 I have, although there is no eyewitness, you have
6 evidence that proves that in fact the defendant is
7 guilty of what she's charged with.

8 Are you going to be, when you go back in the
9 jury room, you know, Ms. Chu proved her case and I
10 believe that she's proven beyond a reasonable doubt that
11 the defendant is guilty, but because I didn't have a
12 witness, I don't know if I can do that?

13 PROSPECTIVE JUROR: Yeah. I don't think I can
14 do that.

15 THE COURT: That would be a problem for you?

16 PROSPECTIVE JUROR: Yeah.

17 MS. CHU: Anybody here think that might be a
18 problem?

19 There is really no right or wrong answer. I
20 appreciate you being honest with me. You realize how,
21 unfortunate it would be if you were selected as jurors,
22 you think you're not going to say, now you don't say
23 anything, we will pick you, then it will be too late,
24 then you're in the jury room, you might have some
25 issues.

Voir Dire - People/Ms. Chu

1 Yes, sir?

2 PROSPECTIVE JUROR: I believe I can be
3 impartial. My problem is, as a business owner I get
4 distracted. It's almost like my employees are part of
5 the family. They work for me. A dysfunctional family,
6 but a family.

7 MS. CHU: They are not all dysfunctional.

8 PROSPECTIVE JUROR: I want to be honest and
9 tell you, even when I'm out to dinner with friends, I
10 get distracted and my mind is somewhere else, I come
11 back because someone will bring me back to the
12 conversation. But that really happens. I don't
13 intentionally let my mind wander. Physically I am here
14 and other things that could distract me that may
15 preclude me from being effective. It might be, if I
16 didn't have the economic situation that I have.

17 MS. CHU: Basically you're saying, because
18 what you do and your job, you would be distracted from
19 perhaps paying one hundred percent attention to what the
20 evidence would be?

21 PROSPECTIVE JUROR: That is one hundred
22 percent accurate.

23 MS. CHU: Thank you very much.

24 Anyone else that their work might consume
25 their thoughts, make them become distracted and not be

Voir Dire - People/Ms. Chu

1 able to listen to the evidence?

2 You raised your hand for another reason.

3 PROSPECTIVE JUROR: I was thinking of
4 something else.

5 MS. CHU: Okay.

6 PROSPECTIVE JUROR: From what you were saying
7 Thursday, I fear that it will mostly be for us to decide
8 if a witness to this or that, to this or that statement
9 or behavior or whatever, is telling the truth or not. I
10 have a serious problem with deciding if a person is
11 telling the truth, beyond my level of my personal --

12 MS. CHU: You are saying that your level of
13 being convinced is higher than what you think the law
14 might be?

15 PROSPECTIVE JUROR: I don't know what the law
16 might be but --

17 THE COURT: The law is they have to prove the
18 defendant's guilt of the charge or charges beyond a
19 reasonable doubt. That's the standard. And it's not
20 beyond all possible doubt, but beyond a reasonable
21 doubt, and I will explain to you what a reasonable doubt
22 is and then you have to determine whether the People
23 have met their burden of proof.

24 Can you do that?

25 PROSPECTIVE JUROR: I really doubt --

Voir Dire - People/Ms. Chu

1 THE COURT: Excuse me?

2 PROSPECTIVE JUROR: I really doubt that, your
3 Honor, 'cause for myself, I cannot understand what the
4 level of reasonable doubt might be. If I know that I am
5 a bad judge of persons and I have to decide if that
6 person said the truth or lied to me and it affects --

7 THE COURT: It's not only that person. You
8 take everything together, including that person, and
9 you'll have to determine, taking everything together,
10 all the evidence, whether that person is telling the
11 truth or not, or whether the People have met their
12 burden.

13 It's not, you know, rocket science. It's
14 very, very -- I can't think of the word right now, but
15 it's like we said, what you bring to this is your common
16 sense and your lifetime experience, that's all.

17 PROSPECTIVE JUROR: I'm sorry, your Honor. My
18 lifetime experience was twenty years of being a
19 scientist before I switched here to being a computer
20 programmer and I'm trained to doubt those things.

21 THE COURT: Well, but I don't want --

22 PROSPECTIVE JUROR: I really don't understand
23 how you can establish anything beyond a reasonable doubt
24 because there's always doubt.

25 THE COURT: It's not what -- I am going to say

Voir Dire - People/Ms. Chu

1 this to everybody. It's not whether he's possibly
2 guilty, that's not the standard. All right? Because if
3 it was just possible guilt, then he's not guilty, but if
4 he is guilty beyond a reasonable doubt. And you're a
5 scientist, you use reason to determine equations and
6 scientific problems, you should be, really, one of the
7 better jurors in the sense that you have -- you think
8 rationally and reasonably. That is what you are going
9 to have to do here. But if you think you are going to
10 be prejudiced in some way or not, that's the question.

11 Can you be fair and impartial, yes or no?

12 PROSPECTIVE JUROR: Certainly. I can be fair
13 and impartial. I am just saying right away that in this
14 case I already know that I will have to say not guilty.

15 THE COURT: Let me just say something, with
16 people that say that, in this case no one knows
17 absolutely anything about this case, absolutely nothing
18 because you have not heard a shred of evidence, not a
19 shred. Okay?

20 PROSPECTIVE JUROR: Yes, sir.

21 THE COURT: So all I'm saying is, when you do
22 hear the evidence, then you will have to ultimately, at
23 the close of the case, make a determination. If you
24 can't do that because of your particular profession or
25 whatever, then you say that. Can you do that or not?

Voir Dire - People/Ms. Chu

1 PROSPECTIVE JUROR: Yes, I can.

2 THE COURT: Okay.

3 MS. CHU: Mr. Yudin, let me ask you, I know
4 you said you were twenty years a scientist before you
5 became a computer programmer for the New York Times,
6 right?

7 PROSPECTIVE JUROR: Correct.

8 MS. CHU: I am assuming that when you're doing
9 computers, there's programs and they have to be exact,
10 everything has to match perfectly, am I correct?

11 PROSPECTIVE JUROR: Yes.

12 MS. CHU: And do you understand that that
13 standard that you use in order to become a computer
14 technology person is different than the standard that
15 you have to use in this case?

16 Do you think that?

17 My question to you, only you will be able to
18 answer that, do you think that if you heard this case
19 you are going to hold to whatever standards you usually
20 use in your line of work or are you going to be able to
21 accept what the Judge tells you as far as that it's
22 beyond a reasonable doubt? Are you even able to think
23 that way?

24 PROSPECTIVE JUROR: I don't know until I try.

25 MS. CHU: You seem to have some reservations

Voir Dire - People/Ms. Chu

1 as to whether or not you will be able to do that.

2 You understand it's not -- the proof is not
3 proof to a mathematical certainty, it doesn't plug into
4 a program and everything spits out exactly what the
5 answer is.

6 PROSPECTIVE JUROR: I understand that, but it
7 doesn't mean that I for myself accept that.

8 MS. CHU: It doesn't mean you accept that?

9 THE COURT: Go on to something.

10 MS. CHU: We talked about that most of the
11 evidence was from something defendant said. Defendant
12 made certain statements to police, also made certain
13 statements to friends of hers, and I want to ask, are
14 you the kind of jurors that can analyze and determine
15 whether or not, from all the other evidence you are
16 going to hear in this case, whether or not what she said
17 at a particular time was maybe truthful, not so true?

18 You understand what I'm asking you?

19 Do you think that you are the kind of juror
20 that was able to process that type of information, to
21 make a determination as to whether or not maybe parts of
22 the statement are true, parts might be false?

23 Ms. Comer, how do you feel about that?

24 PROSPECTIVE JUROR: I'm fine.

25 MS. CHU: You fine with it?

Voir Dire - People/Ms. Chu

1 Ms. Herald?

2 PROSPECTIVE JUROR: Yes.

3 MS. CHU: Mr. Hernandez?

4 PROSPECTIVE JUROR: Yes.

5 MS. CHU: Mr. Adedeji, I wanted to ask you, I
6 know you're an attorney and I don't know the last time
7 you thought about the criminal law, probably not since
8 law school.

9 PROSPECTIVE JUROR: I been working with
10 somebody in general practice so she does both civil and
11 criminal.

12 MS. CHU: As far as you --

13 PROSPECTIVE JUROR: Personally, no, I don't
14 really do criminal.

15 MS. CHU: My question to you, because you're
16 an attorney, do you think that you have more or less
17 expertise in the law compared to the other members of
18 the jury?

19 PROSPECTIVE JUROR: Sometimes lay people know
20 better than we do.

21 MS. CHU: That is true.

22 Can you promise me -- can you all promise me
23 no matter what you think the law might be, that the
24 law -- that the only law that pertains to this case is
25 what this Judge tells you?

Voir Dire - Defendant/Mr. Walensky

1 So you might think it's a certain way before
2 you start this trial and then when the Judge tells you
3 what the law is, can you all promise me that you are
4 going to follow what he says despite what you might have
5 thought before, no matter what?

6 Can you all promise me you can do that?

7 THE COURT: Thank you. All right, thank you.
8 Defense.

9 MR. WALENSKY: Your Honor, would you tell me
10 about a minute before you are going to cut me off, just
11 so I have an idea?

12 THE COURT: Go ahead.

13 MR. WALENSKY: I don't expect to be
14 longwinded.

15 Hello.

16 Hope you all remember me from last week. I'm
17 David Walensky. I'm the attorney for the accused. And
18 if you recall, I said the person is accused because we
19 don't have to defend each other -- we don't have to
20 defend ourselves, I'm sorry.

21 Do you understand that?

22 And that everything has to be done by the
23 People?

24 Now, Mr. Clark, you had said from what you
25 heard you really don't know anything about the case,

Voir Dire - Defendant/Mr. Walensky

1 right?

2 PROSPECTIVE JUROR: Of course not.

3 MR. WALENSKY: There's a defense attorney, it
4 sounds as though I should be able to convict if I hear
5 the evidence, but that's the People's problem. You
6 understand?

7 PROSPECTIVE JUROR: Yes.

8 MR. WALENSKY: Your problem is just hearing
9 the evidence, and if the Judge says, can you follow my
10 directions, following his directions, right?

11 PROSPECTIVE JUROR: Yes.

12 MR. WALENSKY: That's fair enough, isn't it?
13 If they prove their case, so be it, beyond a
14 reasonable doubt.

15 And the Judge will give you the legal
16 definition, Mr. Yudin, of what "beyond a reasonable
17 doubt" is. That's why they talk about analyzing it
18 within that criteria. We will look and see if they have
19 proven their case. If they haven't proven their case
20 beyond a reasonable doubt, you must say not guilty.

21 You understand?

22 It's not even innocent. It's not guilty or
23 innocent, it's guilty or not guilty.

24 It's all laid in their lap and maybe they have
25 enough evidence and maybe they don't.

Voir Dire - Defendant/Mr. Walensky

1 You don't have to say I'm going to believe
2 everything they say. Understand?

3 It becomes their problem.

4 As I said, I worry about it because, you can
5 understand, Ms. Tinnel, because, heck, if they don't
6 prove their case, fine, it's not guilty. But you don't
7 have to go in saying -- you have to go in and I can find
8 guilty, not I must find a person guilty. You understand
9 that? The Judge will tell you that in this case.

10 Ms. Mamer, you had a bad experience five years
11 ago and you fought somebody off, right? That wasn't
12 about rape or anything, was it?

13 PROSPECTIVE JUROR: It was attempted.

14 I'm sorry.

15 MR. WALENSKY: But this is -- you can use your
16 personal experiences in judging things, you understand
17 that?

18 PROSPECTIVE JUROR: Yeah.

19 MR. WALENSKY: This isn't a contest that
20 brings this up again. Sometimes people say I can do
21 this, I can do this. This is a bad case, this
22 particular case.

23 PROSPECTIVE JUROR: I thought I was okay, I'm
24 sorry.

25 MR. WALENSKY: That is what I mean. This is

Voir Dire - Defendant/Mr. Walensky

1 the time to tell us. People too often feel like they're
2 failing. Another case might be perfectly fine, civil
3 case, another kind of criminal case, but it doesn't help
4 anyone if we're trying to do this.

5 Now, Mr. Edelman, intellectually I like to say
6 I can be fair. You're a fair guy?

7 PROSPECTIVE JUROR: I believe that.

8 MR. WALENSKY: But on the other side you said
9 you are going to be distracted.

10 PROSPECTIVE JUROR: For sure.

11 MR. WALENSKY: It would really -- you couldn't
12 be the kind of juror you want to be?

13 PROSPECTIVE JUROR: Correct.

14 MR. WALENSKY: You might miss things if your
15 mind starts to wander. It wanders all the time, right?
16 This is a very serious case. My client's charged with
17 murder. Is there anything more serious? So --

18 PROSPECTIVE JUROR: I am not suggesting that
19 it's not less than serious. I'm not.

20 MR. WALENSKY: You are being honest, you
21 wouldn't be able to give it the attention that you think
22 it deserves.

23 PROSPECTIVE JUROR: I can be here and I
24 respect the Court, I listened to everything everyone
25 said.

Voir Dire - Defendant/Mr. Walensky

1 MR. WALENSKY: You can't give it one hundred
2 percent?

3 PROSPECTIVE JUROR: I don't believe that's the
4 case.

5 MR. WALENSKY: Thank you. That's fine.

6 Again, this isn't pass/fail. This is an
7 expression of our citizenship, why everybody fights for
8 everything. This is what it's about. And you hate
9 getting this notice. On the other hand, if you're here
10 and you can do it, fine. If you can't do it, you're
11 doing a disservice to everything behind that. I don't
12 mean that in a negative way.

13 You understand that?

14 Mr. Hernandez, you got arrested, it was a
15 domestic problem, an argument. Were you treated fairly?

16 PROSPECTIVE JUROR: Yes.

17 MR. WALENSKY: Were you treated fairly?

18 PROSPECTIVE JUROR: By the case?

19 MR. WALENSKY: Yes.

20 PROSPECTIVE JUROR: I guess.

21 MR. WALENSKY: It doesn't sound like you think
22 you should have been arrested.

23 PROSPECTIVE JUROR: No, sir.

24 MR. WALENSKY: But police reacted because
25 somebody said something. That is what the evidence is.

Voir Dire - Defendant/Mr. Walensky

1 Sometimes you can believe people, sometimes you don't
2 believe people. You have to weigh everything.

3 Will you be able to do that, Mr. Ahmed?

4 PROSPECTIVE JUROR: Yes.

5 MR. WALENSKY: Ms. Comer, as an LPN you've
6 probably seen a lot of facets of life.

7 Is there anyone here who believes -- does
8 someone have a problem with the concept of defending
9 themselves?

10 Now, will you all be able to --

11 Mr. Yorker, will be you be able to accept the
12 Judge's definition of how far somebody can go -- rape
13 has its own -- attempted rape has its own set of
14 standards as to how someone can defend themselves.

15 THE COURT: What?

16 I'm sorry.

17 That's not the law, all right.

18 The law of justification I will define for
19 you, all right, and please, whatever the attorneys say
20 is the law just disregard it, okay.

21 Thank you.

22 MR. WALENSKY: You will be able to listen to
23 the Judge's instructions? That's all we want.

24 So, I want to thank you for your attention.

25 If you're selected, please give it your all. You have

Voir Dire

1 no bosses here.

2 Thank you very much.

3 THE COURT: All right.

4 Ladies and gentlemen, will you step outside
5 for a moment, I'll call you back in a few minutes. Take
6 all your belongings.

7 (Whereupon, the panel of prospective jurors
8 exited the courtroom.)

9 COURT OFFICER: Judge, one of the jurors has a
10 question she needs to ask you.

11 (Whereupon, the following took place at
12 sidebar:)

13 PROSPECTIVE JUROR: Thank you.

14 I just want to make sure that there is no
15 problem because I am a nurse, I work in a women's house.

16 THE COURT: Of detention?

17 PROSPECTIVE JUROR: Yes, sir.

18 I want to make sure that's not an issue.

19 MS. CHU: Do you know the defendant?

20 PROSPECTIVE JUROR: I'm sure. I have been in
21 Rikers for twenty-one years. If she's passed through --

22 THE COURT: When you say you're sure, are you
23 sure now?

24 PROSPECTIVE JUROR: I don't have a problem
25 sitting on the case but I just wanted to share that.

Voir Dire

1 Just in case it was any type of conflict, I want you to
2 know.

3 THE COURT: That's understandable.

4 My point is, is that going to affect your
5 ability to be fair and impartial?

6 PROSPECTIVE JUROR: No, sir.

7 THE COURT: All right.

8 PROSPECTIVE JUROR: Thank you.

9 (Whereupon, the prospective juror exited the
10 courtroom.)

11 (Whereupon, the following took place in open
12 court:)

13 THE COURT: First three, cause?

14 MS. CHU: Yes, your Honor.

15 Juror number one.

16 THE COURT: Challenged for cause?

17 MS. CHU: You said the first three?

18 THE COURT: Just the next three.

19 MS. CHU: Okay.

20 THE COURT: That is just cause.

21 MS. CHU: Yes.

22 THE COURT: Defense, cause?

23 MR. WALENSKY: No.

24 THE COURT: Perempt?

25 MS. CHU: No.

Voir Dire

1 THE COURT: Perempt?

2 MR. WALENSKY: Number three.

3 THE COURT: Okay.

4 How many jurors do we have now?

5 MR. POVILL: That should be ten, your Honor.

6 THE CLERK: You perempted number three?

7 MR. WALENSKY: Yes, number three.

8 THE COURT: Next two, cause?

9 MS. CHU: Yes. Mr. Yudin, I believe he stated
10 that because of the nature of how he does his work,
11 being a scientist as well as computers, it would be
12 extremely difficult for him to even try and figure out
13 what "beyond a reasonable doubt" is and I think that
14 would prevent him from being a fair juror. Computers
15 and being a scientist, the way the fields are very
16 exact, I believe that he was very honest in his opinion
17 as to whether or not he'd be able to decide according to
18 what your standards would be, as far as beyond a
19 reasonable doubt.

20 THE COURT: What is your position on that?

21 MR. WALENSKY: I'll leave it up to the Court.
22 I think I will agree with that.

23 THE COURT: He's out for cause.

24 THE CLERK: Let me seat the juror.

25 Juror number ten is Tinnel Herald.

Voir Dire

1 THE COURT: I haven't finished.

2 Perempt?

3 MS. CHU: I'm sorry, what numbers are we up
4 to?

5 THE COURT: Four and five.

6 MS. CHU: I'm sorry.

7 THE COURT: You said cause for Yudin and --

8 MS. CHU: I also want to challenge Mr. Clark
9 for cause, I believe.

10 THE COURT: He's out.

11 MR. WALENSKY: Your Honor, I thought I
12 rehabilitated him.

13 THE COURT: Yeah, you did?

14 He's out for cause.

15 MS. CHU: People also challenge Ms. Mamer.

16 THE COURT: Wait a minute. Wait a minute.

17 MS. CHU: I'm sorry. I thought we were
18 looking at the next three.

19 THE COURT: The next two, Yudin and Clark.

20 MS. CHU: Okay. Sorry about that.

21 THE COURT: You challenged Yudin and Clark for
22 cause. I've granted them.

23 MS. CHU: Yes.

24 THE COURT: Next, Mamer and Hernandez. Yeah,
25 Mamer and Hernandez.

Voir Dire

1 MS. CHU: I challenge Ms. Mamer for cause.

2 MR. WALENSKY: I agree.

3 THE COURT: She's out for cause.

4 Hernandez, cause?

5 MS. CHU: No.

6 THE COURT: Cause?

7 MR. WALENSKY: No.

8 THE COURT: Perempt?

9 MS. CHU: No.

10 THE COURT: Perempt?

11 MR. WALENSKY: Yes.

12 THE CLERK: That is Hernandez.

13 MR. WALENSKY: Yes, that's Hernandez.

14 THE COURT: Adedeji?

15 MS. SCHWARTZKOPF: Eight and nine.

16 THE COURT: Eight and nine, yes.

17 MS. CHU: None for cause.

18 THE COURT: Cause?

19 MR. WALENSKY: No.

20 THE COURT: Perempt?

21 MS. CHU: People challenge juror number nine.

22 THE COURT: Comer?

23 MS. CHU: Yes.

24 THE COURT: Defense?

25 MR. WALENSKY: Number eight.

Voir Dire

1 THE COURT: All right.

2 Ahmed, cause?

3 MS. CHU: None for cause.

4 THE COURT: Cause?

5 MR. WALENSKY: No.

6 THE COURT: Perempt?

7 MS. CHU: No.

8 THE COURT: Perempt?

9 MR. WALENSKY: Yes.

10 THE CLERK: Defense used four.

11 MS. SCHWARTZKOPF: Yes.

12 And People used one.

13 THE COURT: What is the total?

14 THE CLERK: People used twelve, defense

15 eighteen.

16 THE COURT: All right.

17 Get the jurors in, please.

18 MS. CHU: How many challenges do I have left?

19 Eight?

20 MS. SCHWARTZKOPF: Eight.

21 MS. CHU: How many does the defense have?

22 MS. SCHWARTZKOPF: Two.

23 COURT OFFICER: Panel entering.

24 (Whereupon, the panel of prospective jurors
25 entered the courtroom.)

Voir Dire

1 THE CLERK: Okay, ladies and gentlemen, if you
2 hear your name called that means you have been selected
3 to serve as a juror. If you do not hear your name
4 called, you are excused, go back to the second floor,
5 Central Jury, with the thanks of the Court.

6 Juror number ten will be Tinnel Herald.

7 The rest of you go back to the second floor.

8 THE COURT: Ms. Herald, sit down. The rest
9 of you go back to the second floor, Central Jury.

10 Thank you.

11 (Whereupon, the panel of prospective jurors
12 exited the courtroom.)

13 THE COURT: Swear her in.

14 THE CLERK: Please rise, raise your right
15 hand.

16 Do you sincerely and solemnly swear or affirm
17 you will try this case in a just and impartial manner to
18 the best of your judgment and you will render a verdict
19 according to the law and the evidence?

20 Your response?

21 PROSPECTIVE JUROR: Yes.

22 THE CLERK: You may see the Court Officer.

23 (Whereupon, the sworn juror exited the
24 courtroom.)

25 THE COURT: We have ten and --

Voir Dire

1 THE CLERK: Ten sworn.

2 THE COURT: And they're bringing up the
3 supplemental panel?

4 THE CLERK: Yes.

5 (Whereupon, there was a brief pause in the
6 proceedings.)

7 THE COURT: All right, we'll take a break. We
8 will be back at a quarter after -- I mean, ten to.

9 (Whereupon, a brief recess was held.)

10 THE CLERK: Case back on trial continues. All
11 parties present. Defendant is present with her
12 attorney.

13 THE COURT: Where are we now?

14 MS. SCHWARTZKOPF: We have the supplemental
15 panel.

16 THE COURT: Bring in the supplemental panel.

17 (Whereupon, there was a brief pause in the
18 proceedings.)

19 COURT OFFICER: Jury panel entering.

20 (Whereupon, the panel of prospective jurors
21 entered the courtroom.)

22 THE CLERK: All rise, please, and raise your
23 right hand.

24 Do you and each of you sincerely and solemnly
25 swear or affirm that you will answer truthfully all

Voir Dire

1 questions asked of you relating to your qualifications
2 to serve as jurors in this action?

3 What is your response?

4 (Whereupon, the prospective jurors responded.)

5 THE CLERK: Please be seated.

6 THE COURT: All right.

7 Good afternoon, ladies and gentlemen. I am
8 Supreme Court Justice Albert Tomei and I want to welcome
9 you to Part 2 of the State Supreme Court, the County of
10 Kings, the Criminal Term.

11 I will be presiding over the case of the
12 People of the State of New York against Ms. Atara
13 Wisdom. She has been charged with the crime of murder
14 in the second degree and she's alleged to have stabbed
15 to death Mr. Anthony Wilson on -- sometime between
16 November 29th, 2011, and January 3rd of 2012 inside of
17 832 Bushwick Avenue in the Bushwick section of
18 Brooklyn.

19 I will tell you now, those charges -- that
20 charge is merely an allegation, merely an accusation,
21 it's not proof or evidence of anything. A little later
22 on I will explain to you exactly what an indictment
23 represents. However, before we proceed, what I'd like
24 to do is introduce the principal parties involved in
25 this matter.

Voir Dire

1 First of all I'd like to introduce you to
2 Atara Wisdom, the defendant in this case.

3 Please stand, turn around and introduce
4 yourself.

5 THE DEFENDANT: Hi everyone.

6 THE COURT: She is being represented by an
7 attorney, Mr. Joshua Povill.

8 MR. POVILL: Good morning.

9 THE COURT: And her principal attorney, Mr.
10 David Walensky.

11 MR. WALENSKY: Good afternoon.

12 THE COURT: And representing the People, the
13 District Attorney of Kings County, Assistant District
14 Attorney Phyllis Chu will be trying this matter.

15 MS. CHU: Good morning, ladies and gentlemen.

16 THE COURT: Do any of you ladies and gentlemen
17 know any of the parties I have introduced or anyone else
18 in the courtroom, including myself?

19 I don't see any hands so I would assume all of
20 you do not know any of the participants.

21 We are in the process of selecting a jury
22 right now. Ladies and gentlemen, we have ten jurors, we
23 need two more to complete the petit jury -- a jury of
24 twelve plus alternates is called a petit jury -- and we
25 need a couple of alternates, so we should finish the

Voir Dire

1 jury selection process hopefully if not by the end of
2 the morning session, certainly by the afternoon
3 session.

4 This jury selection process is known as the
5 voir dire. It's a French term, to see them say.

6 Basically what we are concerned about is
7 getting, not only the Court, but the attorneys, both
8 defense and the people, they want jurors who are fair
9 and impartial and will make their determination solely
10 on the evidence or lack of evidence in the case.

11 So the process that we are engaging in is a
12 process which includes questioning you about your
13 background and your ability to be fair and to determine
14 whether you have any predisposition regarding this
15 matter and whether you can sit in this matter.

16 Fair and impartial, that is the hallmark of
17 jury selection and the selection of jurors. So, please
18 do not be offended if we do ask some personal questions.
19 It's impossible to know all of you the way you know
20 yourselves, but we try to -- we try to eliminate any
21 infection, that is called prejudice, from the trial
22 process, so please indulge us while we do that.

23 The process is as follows: I will make a
24 general inquiry of all of you jurors. Do not respond
25 unless I ask for the response. At the end of my general

Voir Dire

1 inquiry I will ask if any of the questions I've posed
2 affect you and you wish to make a statement.

3 Also, as I already stated, only you know
4 yourselves, not only you, you know yourselves better
5 than anyone else. If there is something that would
6 prevent you from sitting, whatever it be or might be,
7 let the Court know because to have you selected as a
8 juror and then you come back after selection and say you
9 forgot this, you forgot that, I'm going to hear I got a
10 ticket for this, I can't do this, only makes me very
11 unhappy, and I don't like to be unhappy because it
12 really throws a wrench in the proceedings, all right.

13 And a lot of people come in here with the idea
14 I am not going to be selected. You don't know if you're
15 going to be selected or not. You may not, you may, but
16 to say later on, I forgot this just to get off jury
17 service -- not even to get off -- you gotta listen.

18 Now, this process is not an easy one to
19 participate in because it's very tedious, it's very
20 repetitious but very important.

21 So first I am going to do the general
22 inquiries.

23 Secondly, after I do that I am going to inform
24 you of certain principles of law that you must follow if
25 you're selected as a juror.

Voir Dire

1 And thirdly, there will be an individual voir
2 dire where I will ask you personally certain questions,
3 then following my individual voir dire, the individual
4 voir dire or jury selection process by the attorneys.
5 That's how it goes.

6 First of all, I'd like to know if any of you
7 ladies and gentlemen have any physical disabilities or
8 maladies that would prevent you from sitting for an
9 hour, an hour and fifteen minutes, it's not fixed in
10 stone, after an hour and ten minutes if you need a
11 break, we will take a break, if it's legitimate.

12 Any of you ladies and gentlemen taking any
13 medication or drugs that would disorient you to the
14 extent that you could not follow these proceedings, you
15 become dizzy, or disoriented?

16 And you really have to be in horrible physical
17 shape for me to excuse you, ladies and gentlemen. So,
18 you know, everybody has a little ailment here. We all
19 take drugs today for anything. You have a headache, you
20 take something, whatever. It has to be real serious.

21 I would also like to know if any of you ladies
22 and gentlemen have any difficulty understanding the
23 English language or communicating in the English
24 language. If you do, please let me know.

25 I also would like to know if any of you ladies

Voir Dire

1 and gentlemen have difficulty seeing or hearing, because
2 obviously there's going to be evidence in the case and
3 you're going to have to observe and read it, see it,
4 whatever, hear it.

5 I would also like to know if there are any
6 students attending school right now. Are there any
7 students attending school right now?

8 Give your name.

9 PROSPECTIVE JUROR: Thomas Lay (phonetic).

10 THE COURT: What do you do?

11 PROSPECTIVE JUROR: I am a part-time student,
12 part-time graduate student. I have an obligation for
13 class over the summer.

14 THE COURT: Are you taking class now?

15 PROSPECTIVE JUROR: I am not enrolled at the
16 moment but I have an incomplete class that I am working
17 on finishing.

18 THE COURT: This case -- let me just say, this
19 case should be over by next week, the latest Tuesday.
20 That's my guesstimate, all right. Okay.

21 Is that all right with you?

22 PROSPECTIVE JUROR: Yes.

23 THE COURT: Sit down.

24 I would also like to know, is there anyone
25 here who doesn't understand English or has difficulty

Voir Dire

1 with the English language?

2 Just raise your hand.

3 No? Okay.

4 We are only going to meet, if you're selected,
5 we are going to meet today, tomorrow and Wednesday and
6 then we'll return on -- what is it? -- the 8th. You
7 don't have to worry about the holiday, you will be able
8 to buy firecrackers, do whatever you want, watch the
9 Macy's parade or whatever it is.

10 Anyway, what else was I going to say?

11 Oh, I would like to know if any of you ladies
12 and gentlemen have any religious, moral or ethical
13 reason why you cannot sit in judgment of Ms. Wilson.

14 I would also like to know if any of you ladies
15 and gentlemen were called to jury service, whether it be
16 in the federal court system, state court system or city
17 court system, or called to serve on the Grand Jury,
18 which is an entirely different legal entity, within this
19 period of time.

20 What's today's date?

21 THE CLERK: Today is June 30th.

22 THE COURT: Between the date of June 30th,
23 2012 and June 30th, 2014, if you were called, you didn't
24 have to sit, if you were called, they sent you a notice
25 to come in and you go in, that is all I want to know.

Voir Dire

1 What else?

2 MS. CHU: Somebody raised their hand before.

3 THE COURT: Who raised their hand?

4 Yes, ma'am?

5 PROSPECTIVE JUROR: I am a Jehovah's Witness.

6 THE COURT: That's okay. I haven't gotten to
7 that part yet.

8 So right now I am going to go down row by row,
9 and if any of the questions I've posed affect you and
10 you want to speak to the Court, just stand and make your
11 statement. Or if you have information that is known
12 only to you and it would prevent you from sitting, let
13 us know.

14 Also, like I said before, I don't suffer
15 excuses very easily or very gladly, ladies and
16 gentlemen, because if I accepted everybody's excuse, you
17 could never sit and listen to all the hundreds and
18 hundreds and hundreds of cases that go through the halls
19 of justice, so be aware of that.

20 All right.

21 So we are going row by row, and if you wish to
22 address the Court, just stand, give your name. If it's
23 something very personal that you do not wish to reveal
24 before the rest of the jurors, let me know, you will be
25 able to make your statement at the bench.

Voir Dire

1 First row, anyone?

2 Second row?

3 Third row?

4 Fourth row?

5 Fifth row?

6 No one.

7 Miss, you said you were Jehovah's Witness?

8 PROSPECTIVE JUROR: My name is Charlotte

9 Lindsay-Gibson (phonetic).

10 THE CLERK: Last name?

11 PROSPECTIVE JUROR: Gibson. Lindsay-Gibson.

12 I have two last names.

13 THE CLERK: What is the other one?

14 PROSPECTIVE JUROR: Lindsay.

15 THE COURT: You know what, Ms. Gibson, you can
16 go downstairs and go to -- can I see your card?

17 All right.

18 So I don't see any other hands so we're going
19 to proceed. I am going to proceed and inform you with
20 respect to the legal principles that apply to this
21 criminal trial and all criminal trials.

22 First of all, as I indicated, the mere fact
23 that Ms. Wisdom has been charged in the indictment with
24 this crime of murder in the second degree means -- I
25 will start all over again.

Voir Dire

1 The fact that she's been charged with these
2 crimes doesn't mean that there is any evidence that
3 she's committed these crimes or this crime.

4 The indictment really is a piece of paper that
5 reflects the charge and as a consequence that person is
6 brought into court and then the People have to prove
7 each and every material element of the crime charged
8 beyond a reasonable doubt. That burden always remains
9 on the People, never shifts to the defendant.

10 It's merely an accusation, merely an
11 allegation and not proof of anything.

12 If you're selected as a juror, you are going
13 to be determining what the facts are in this case, and
14 after determining what the facts are, you will determine
15 what the evidence shows. In other words, you'll
16 determine what the evidence is in this matter, or lack
17 of evidence, and then I will -- that will be your
18 province, you will be the judges, you are going to be
19 judges for a couple of days and you will determine what
20 the facts are in this matter. I will not be able to
21 tell you what the facts are in this matter or what the
22 evidence is, all right. But I will tell you at the
23 close of the case what the law is because that's my
24 province.

25 I am not allowed to interfere in your province

Voir Dire

1 and you are not allowed to interfere in mine. You have
2 to take the law as I give it to you.

3 So once the case is concluded, you will take
4 the evidence or the facts in the matter, determine what
5 the evidence is and then I will give you the law and
6 then you will make a determination, which is called a
7 verdict. Your verdict may be guilty or not guilty. You
8 may find defendant guilty of some charges and not guilty
9 of others.

10 During the course of the trial the attorneys
11 are going to be making motions, applications and
12 objections. I am going to be ruling on them as a matter
13 of law. None of my rulings should be taken by you as
14 any indication whether you should believe all or part of
15 what is offered in evidence or that the defendant is
16 guilty or not guilty. That is solely your function to
17 determine but you must accept the law as I give it to
18 you.

19 If the defendant and the People are to have a
20 fair trial to which they are entitled, you must follow
21 the law as I give it to you, whether you agree with it
22 or not, whether you like it or not. You will agree not
23 to substitute your interpretation of the law.

24 Can you all do that, folks?

25 Will you all agree?

Voir Dire

1 You didn't have your coffee this morning?

2 I gotta hear in a loud and clear voice, yes or
3 no.

4 (Whereupon, the prospective jurors responded.)

5 THE COURT: Thank you.

6 The reason I say that is because if I don't
7 hear from you, I don't know what you're thinking, I
8 don't know what you're feeling, all right.

9 Now, how many of you watch all these Law &
10 Order ridiculous shows?

11 Come on, everybody. C.S.I., there's four
12 million of them right now. How many states do we have,
13 fifty? We have about fifty C.S.I.

14 You got all these forensic scientists coming
15 in and blah, blah, blah, it's all blah, blah. By the
16 way, it's all entertainment, forget about them, okay.
17 Forget them.

18 Ninety-seven percent, in my opinion, of all of
19 the evidence comes in the form of what people say.
20 People get on the stand, they swear to tell the truth,
21 nothing but the truth, so help them God and they tell
22 you what they know, all right.

23 It's going to be up to you to determine
24 whether they are, one, telling the truth; two, lying;
25 three, mistaken.

Voir Dire

1 Those are the three options, all right.

2 That's basically most of the evidence.

3 So, you may say, well, what am I supposed to

4 do?

5 What you're supposed to do is take your life
6 experience, which means if you're eighteen or over you
7 have a life experience, and your common sense, which you
8 have not left outside the door, and when you go in the
9 jury room and you take that and you apply it to the
10 facts and the law in this case. That's what you do,
11 okay.

12 You don't have to be a rocket scientist to be
13 a juror. You don't have to have any level of education
14 to be a juror. There is no school for jurors, all
15 right.

16 So what I am going to do, I'm going to give
17 you the names of people that you may hear during the
18 course of the trial or who may be witnesses during the
19 course of the trial, so then you let me know if you know
20 any of them.

21 The alleged victim in this case is Mr. Anthony
22 Wilson. It's alleged he was stabbed to death by Ms.
23 Wisdom.

24 Victoria Wilson.

25 Shakeema Fortune.

Voir Dire

1 Donet Robinson.

2 Matthew Shepard.

3 Linda Smith-Harris.

4 Detective Deborah Batanjani of the 83rd
5 Precinct.

6 Police Officer Garret Marsden of the 83rd
7 Precinct.

8 Police Officer Christian Carlin of the 83rd
9 Precinct.

10 Police Officer Juana Ortiz of the 83rd
11 Precinct.

12 Detective Geoffrey Hernandez of Brooklyn North
13 Homicide Squad.

14 And Detective Christopher Scandole of the
15 Brooklyn North Homicide Squad.

16 Detective Stephen Markoski of the N.Y.P.D.
17 Crime Scene Unit.

18 Dr. Frede Frederic or Scordi-Bello, it may be,
19 from the Medical Examiner's Office of the State of New
20 York.

21 Sarah Philipps of the Office of the Chief
22 Medical Examiner's DNA lab.

23 Ed Purce, P-U-R-C-E.

24 You will hear from a Sprint Nextel phone
25 representative.

Voir Dire

1 You will hear from a 911 representative and an
2 EBT representative.

3 What is that?

4 MS. CHU: Welfare.

5 THE COURT: Welfare representative.

6 Are any of you familiar with any of these
7 people, yes or no?

8 (Whereupon, the jurors responded.)

9 THE COURT: Now, as jurors your verdict must
10 be unanimous. Twelve jurors seldom agree immediately,
11 therefore you're called upon to deliberate.

12 Can you promise the defendant and the People
13 that you will be willing to participate in the
14 deliberations, express your views based on the evidence
15 in this case, keep an open mind and listen to the views
16 of other jurors?

17 Can you all do that?

18 Thank you.

19 Now, as Ms. Wisdom sits here she's cloaked
20 with this presumption of innocence. That cloak can only
21 be removed if the jury finds her guilty beyond a
22 reasonable doubt. So, she's presumed innocent at this
23 particular time, all right, and the People have the
24 burden of rebutting the presumption, if they can, by
25 presenting evidence which convinces you beyond a

Voir Dire

1 reasonable doubt of the defendant's guilt.

2 In a criminal case the burden of proof is on
3 always on the People and remains with the People
4 throughout the course of the trial, never shifts to the
5 defendant. The defendant is not required to produce any
6 evidence, is not required to produce witnesses and is
7 not required to testify. Should she not testify, you
8 cannot hold it against her, okay.

9 Outside of this courtroom, outside of this
10 venue, the laws are different. Johnny and Joey get into
11 some dispute, you go to Johnny, you go to Joey, you ask
12 Johnny what happened, you ask Joey what happened, then
13 you make up your mind and determine what really
14 happened.

15 Ms. Wisdom doesn't have to do a single,
16 solitary thing. She doesn't have to testify. The
17 attorneys, they can go to sleep if they want with
18 respect to her defense. They are not going to do that,
19 they are going to present a defense, but that's the
20 law.

21 Does anyone have any difficulty accepting that
22 law as I have explained it?

23 Yes or no?

24 (Whereupon, the prospective jurors responded.)

25 THE COURT: I am losing some of you.

Voir Dire

1 Yes or no?

2 (Whereupon, the prospective jurors responded.)

3 THE COURT: A criminal case is different than
4 a civil case. In a criminal case all the jurors must
5 agree. In a civil case only five of six need agree. In
6 a criminal case the People will prove the case beyond a
7 reasonable doubt. In a civil case the plaintiff must
8 only prove his or her case by a fair preponderance of
9 the credible evidence.

10 Now, everybody heard the term "reasonable
11 doubt." I will not tell you what a reasonable doubt is
12 now but I will tell you, if you have a reasonable doubt
13 as to the defendant's guilt, then you must find her not
14 guilty. In other words, if you are convinced of her
15 guilt beyond a reasonable doubt, then you must find her
16 guilty of the crime or crimes charged.

17 Now, you may say, what do I do when I get into
18 the jury room?

19 What I said is, you take your common sense,
20 your lifetime experience, you go into the jury room and
21 you focus.

22 What do you focus on?

23 The evidence or lack of evidence, not any
24 sympathy for Ms. Wisdom or the People's position in the
25 matter or witnesses. You don't focus on what the

Voir Dire

1 punishment may be or what the sentence may be because
2 that's not your concern, all right. It's irrelevant.
3 Those are irrelevant matters.

4 So, if someone was to bring up these matters,
5 you would have to say, madam, sir, Judge Tomei said we
6 have to do this, and let's get back on track.

7 Can you all do that, folks?

8 Now, there are going to be a number of police
9 officers testifying in this case. I will tell you now,
10 they are to be treated like any other witness, they are
11 not to be given any greater believability or less
12 believability because they're police officers. However,
13 if you feel, because of your own personal experience,
14 the experience of someone who's close to you or because
15 of what you have heard or seen or read in the media,
16 you feel you cannot be fair and impartial when it comes
17 to evaluating police officers' testimony, let me know
18 now.

19 Is there anyone who feels that way?

20 Okay. All right.

21 So, the next step is, your name is going to be
22 called. You will take a seat in the jury box.

23 We will seat sixteen jurors, all right, and
24 you will -- after you take a seat -- well, after you're
25 called, you say "present" or "here" so we know you are

Voir Dire

1 here, you'll come, enter from my right, your left, into
2 the well of the courtroom, take a seat, then we'll
3 proceed to fill the rest of the box.

4 So, we will proceed at this particular time.
5 Go ahead.

6 THE CLERK: Seat number one will be Kingsley
7 McFarlane.

8 Say "here" or "present," please.

9 PROSPECTIVE JUROR: Present.

10 THE COURT: Spell the name.

11 THE CLERK: M-C-F-A-R-L-A-N-E.

12 PROSPECTIVE JUROR: Correct.

13 THE CLERK: Seat two, William McNair.

14 PROSPECTIVE JUROR: Present.

15 THE CLERK: M-C-N-A-I-R.

16 Seat three, Yung (phonetic) Lee, L-E-E.

17 PROSPECTIVE JUROR: Present.

18 THE CLERK: Seat four, Marlon (phonetic)

19 Laing.

20 PROSPECTIVE JUROR: Here.

21 THE CLERK: L-A-I-N-G.

22 PROSPECTIVE JUROR: That's correct.

23 THE CLERK: That's seat four.

24 Seat five, Lorenzo Nolberto.

25 You have to say "here" or "present."

Voir Dire

1 PROSPECTIVE JUROR: Present.

2 THE CLERK: Lorenzo N-O-L-B-E-R-T-O.

3 THE COURT: N-O-L --

4 THE CLERK: N-O-L-B-E-R-T-O.

5 Seat six Marco (phonetic) Phillips.

6 PROSPECTIVE JUROR: Here.

7 THE CLERK: P-H-I-L-L-I-P-S.

8 Seat seven, Leslie Larson.

9 PROSPECTIVE JUROR: Here.

10 THE CLERK: L-A-R-S-O-N.

11 Seat eight, Jawan (phonetic) Lamont.

12 PROSPECTIVE JUROR: Present.

13 THE CLERK: L-A-M-O-N-T.

14 PROSPECTIVE JUROR: Yes.

15 THE CLERK: Seat nine, Jerlanie (phonetic)

16 Roberts.

17 PROSPECTIVE JUROR: Present.

18 THE CLERK: R-O-B-E-R-T-S.

19 Seat ten, Renee Scott.

20 PROSPECTIVE JUROR: Present.

21 THE CLERK: S-C-O-T-T.

22 THE CLERK: Seat eleven, Sarah (phonetic)

23 Harris.

24 PROSPECTIVE JUROR: Here.

25 THE CLERK: H-A-R-R-I-S.

Voir Dire

1 Seat twelve is Jerry (phonetic) Audige.

2 PROSPECTIVE JUROR: Present.

3 THE CLERK: A-U-D-I-G-E.

4 THE COURT: Just do fourteen.

5 THE CLERK: Just to fourteen?

6 THE COURT: Yes.

7 THE CLERK: Seat thirteen, Salion (phonetic)

8 Seivwright.

9 PROSPECTIVE JUROR: Seivwright.

10 THE CLERK: S-E-I-V-W-R-I-G-H-T.

11 And seat fourteen, Denise (phonetic) Chung.

12 PROSPECTIVE JUROR: Present.

13 THE CLERK: C-H-U-N-G.

14 THE COURT: All right.

15 Mr. McFarlane, your neighborhood?

16 PROSPECTIVE JUROR: Yes.

17 THE COURT: What is your neighborhood? Where

18 do you live?

19 PROSPECTIVE JUROR: Oh, East New York.

20 THE COURT: Thank you.

21 Mr. McNair?

22 PROSPECTIVE JUROR: Bed-Stuy.

23 THE COURT: Mr. Lee?

24 PROSPECTIVE JUROR: Bay Ridge.

25 THE COURT: Ms. Laing?

Voir Dire

1 PROSPECTIVE JUROR: Canarsie.

2 THE COURT: Mr. Nolberto?

3 PROSPECTIVE JUROR: Crown Heights.

4 THE COURT: Where?

5 PROSPECTIVE JUROR: Crown Heights.

6 THE COURT: Crown Heights.

7 Mr. Phillips?

8 PROSPECTIVE JUROR: Bed-Stuy.

9 THE COURT: Bed-Stuy.

10 Ms. Chung?

11 PROSPECTIVE JUROR: East Flatbush.

12 THE COURT: East Flatbush.

13 Ms. Seivwright?

14 PROSPECTIVE JUROR: Brooklyn.

15 THE COURT: What part of Brooklyn?

16 PROSPECTIVE JUROR: Church Avenue.

17 THE COURT: And where?

18 PROSPECTIVE JUROR: Linden.

19 THE COURT: Do you live in East Flatbush?

20 PROSPECTIVE JUROR: East Flatbush.

21 THE COURT: Okay.

22 How do you say it, Audige?

23 PROSPECTIVE JUROR: Audige.

24 THE COURT: Mr. Audige?

25 PROSPECTIVE JUROR: Brownsville.

Voir Dire

1 THE COURT: Ms. Harris?

2 PROSPECTIVE JUROR: Bed-Stuy.

3 THE COURT: Bed-Stuy.

4 Ms. Scott?

5 PROSPECTIVE JUROR: East New York.

6 THE COURT: Ms. Roberts -- Mr. Roberts, I'm

7 sorry?

8 PROSPECTIVE JUROR: East Flatbush.

9 THE COURT: East Flatbush, okay.

10 Mr. Lamont?

11 PROSPECTIVE JUROR: Canarsie.

12 THE COURT: Canarsie.

13 And Ms. Larson?

14 PROSPECTIVE JUROR: Ditmas Park.

15 THE COURT: Ditmas, all right.

16 First row, any of you ladies and gentlemen

17 familiar with the crime scene area, 832 Bushwick Avenue?

18 Anyone?

19 Second row, anyone?

20 Mr. McFarlane, married, single, separated,

21 divorced?

22 PROSPECTIVE JUROR: Married.

23 THE COURT: Your occupation?

24 PROSPECTIVE JUROR: Nursing assistant.

25 THE COURT: A what?

Voir Dire

1 PROSPECTIVE JUROR: A nursing assistant.

2 THE COURT: Nursing assistant, I'm sorry.

3 And your spouse, your wife?

4 PROSPECTIVE JUROR: Social worker.

5 THE COURT: City or private?

6 PROSPECTIVE JUROR: City.

7 THE COURT: Okay.

8 Mr. McNair?

9 PROSPECTIVE JUROR: Single.

10 THE COURT: Occupation?

11 PROSPECTIVE JUROR: Executive assistant.

12 THE COURT: Who do you work for?

13 PROSPECTIVE JUROR: Ann Taylor Corporation.

14 THE COURT: Ann Taylor?

15 PROSPECTIVE JUROR: Yes.

16 THE COURT: Mr. Lee?

17 PROSPECTIVE JUROR: Single.

18 THE COURT: Occupation?

19 PROSPECTIVE JUROR: System admin. Tech,

20 technician.

21 THE COURT: IT.

22 Ms. Laing?

23 PROSPECTIVE JUROR: Care manager, community

24 based.

25 THE COURT: I'm sorry.

Voir Dire

1 Married, single?

2 PROSPECTIVE JUROR: Married.

3 THE COURT: You're married?

4 PROSPECTIVE JUROR: Yes.

5 THE COURT: Your occupation?

6 PROSPECTIVE JUROR: Care manager,
7 community-based organization in Brownsville.

8 THE COURT: You're a care manager, that is for
9 a not-for-profit organization?

10 PROSPECTIVE JUROR: Yeah.

11 THE COURT: And your spouse?

12 PROSPECTIVE JUROR: Retired.

13 THE COURT: What did he do before he retired?

14 PROSPECTIVE JUROR: Well, he was a factory
15 supervisor.

16 THE COURT: I'm sorry?

17 PROSPECTIVE JUROR: Factory supervisor.

18 THE COURT: Oh, factory supervisor.

19 PROSPECTIVE JUROR: Yes, sir.

20 THE COURT: Thank you.

21 Mr. Nolberto?

22 PROSPECTIVE JUROR: Single.

23 THE COURT: Your occupation?

24 PROSPECTIVE JUROR: Unemployed.

25 THE COURT: What did you do before you were

Voir Dire

1 unemployed?

2 PROSPECTIVE JUROR: I used to work at a
3 restaurant.

4 THE COURT: Doing what?

5 PROSPECTIVE JUROR: Like dishwashing.

6 THE COURT: Okay. Thank you.

7 Mr. Phillips?

8 PROSPECTIVE JUROR: Single.

9 THE COURT: Occupation?

10 PROSPECTIVE JUROR: IT technician.

11 THE COURT: Ms. Chung?

12 PROSPECTIVE JUROR: Single.

13 Senior staff assistant.

14 THE COURT: For what? For whom?

15 PROSPECTIVE JUROR: A hospital. Hospital.

16 THE COURT: Which hospital?

17 PROSPECTIVE JUROR: Downstate Medical Center.

18 THE COURT: Thank you.

19 Ms. Seivwright?

20 PROSPECTIVE JUROR: Married.

21 THE COURT: Occupation?

22 PROSPECTIVE JUROR: Chef.

23 THE COURT: Chef?

24 PROSPECTIVE JUROR: Yes.

25 THE COURT: And your spouse?

Voir Dire

1 PROSPECTIVE JUROR: Taxi driver.

2 THE COURT: Taxi driver.

3 You must eat good.

4 PROSPECTIVE JUROR: My throat is bad.

5 THE COURT: Mr. Audige?

6 PROSPECTIVE JUROR: Single.

7 THE COURT: Occupation?

8 PROSPECTIVE JUROR: Track worker.

9 THE COURT: You work for MTA?

10 PROSPECTIVE JUROR: Correct.

11 THE COURT: Ms. Harris?

12 PROSPECTIVE JUROR: Single.

13 THE COURT: Occupation?

14 PROSPECTIVE JUROR: Licensed social worker.

15 THE COURT: Work for the City of New York?

16 PROSPECTIVE JUROR: I work for a program that
17 is funded by organizations and partially nonprofit
18 funded.

19 THE COURT: Okay.

20 Ms. Scott?

21 PROSPECTIVE JUROR: Single.

22 THE COURT: Occupation?

23 PROSPECTIVE JUROR: I'm a student.

24 THE COURT: What are you studying?

25 PROSPECTIVE JUROR: Social work.

Voir Dire

1 THE COURT: Okay.

2 Ms. Roberts -- Mr. Roberts, I'm sorry.

3 PROSPECTIVE JUROR: Single.

4 THE COURT: Single?

5 PROSPECTIVE JUROR: Yes.

6 THE COURT: And your occupation?

7 PROSPECTIVE JUROR: I'm a teaching artist of
8 music.

9 THE COURT: Are you doing that now?

10 PROSPECTIVE JUROR: Yes.

11 THE COURT: What instrument do you teach?
12 What do you teach?

13 PROSPECTIVE JUROR: I teach how to play steel
14 band and drums.

15 THE COURT: Okay.

16 Do you teach at a specific site?

17 PROSPECTIVE JUROR: Well, it depends on the
18 school that employs me.

19 THE COURT: Okay.

20 It's like you're an independent contractor, is
21 that what you do? Are you certified by the Board of
22 Education or what?

23 PROSPECTIVE JUROR: I have -- not by the Board
24 of Ed. I work underneath the Department of Health,
25 actually. I work with a company that is -- I don't

Voir Dire

1 know -- in tandem with the Department of Health.

2 THE COURT: You go to different schools?

3 PROSPECTIVE JUROR: Yeah.

4 THE COURT: Mr. Lamont?

5 PROSPECTIVE JUROR: Single.

6 THE COURT: And occupation?

7 PROSPECTIVE JUROR: I'm a student.

8 THE COURT: What are you studying?

9 PROSPECTIVE JUROR: Biology.

10 THE COURT: Ms. Larson?

11 PROSPECTIVE JUROR: Married.

12 THE COURT: Occupation?

13 PROSPECTIVE JUROR: Flight attendant.

14 THE COURT: What?

15 PROSPECTIVE JUROR: Flight attendant.

16 THE COURT: Flight attendant.

17 And your spouse?

18 PROSPECTIVE JUROR: Insurance agent.

19 THE COURT: All right.

20 Any of you in the first row, any of you ladies

21 and gentlemen ever served on a jury before?

22 Second row, anyone?

23 All right.

24 First row, any of you ladies and gentlemen

25 ever been the victim of a crime, or someone close to

Voir Dire

1 you? Could have been a very serious crime, murder,
2 rape, whatever it might be, or even a simple chain
3 snatch?

4 Ever been the victim of a crime, anyone, or
5 someone close to you?

6 That is Mr. Phillips?

7 PROSPECTIVE JUROR: Yes.

8 THE COURT: What is it?

9 PROSPECTIVE JUROR: I was hit by a car.

10 THE COURT: It was a hit and run?

11 PROSPECTIVE JUROR: It was kind of like -- not
12 hit and run.

13 THE COURT: Was there an arrest made?

14 PROSPECTIVE JUROR: Yes.

15 THE COURT: And why --

16 PROSPECTIVE JUROR: I was crossing. I was
17 crossing.

18 THE COURT: Why did they arrest the person who
19 hit you?

20 PROSPECTIVE JUROR: Because he hit me and he
21 ran. Basically, he was driving on the opposite side of
22 the street so --

23 THE COURT: Reckless driving?

24 PROSPECTIVE JUROR: Yes.

25 THE COURT: Okay.

Voir Dire

1 Who else?

2 First row, anyone?

3 Mr. McNair?

4 PROSPECTIVE JUROR: Mugging in Harlem.

5 THE COURT: You were robbed in Harlem?

6 PROSPECTIVE JUROR: Uh-huh.

7 THE COURT: Was there a weapon involved?

8 PROSPECTIVE JUROR: A knife.

9 THE COURT: How long ago?

10 PROSPECTIVE JUROR: Five years ago.

11 THE COURT: Did you report it to the police?

12 PROSPECTIVE JUROR: Yes.

13 THE COURT: Was the perpetrator or
14 perpetrators ever apprehended?

15 PROSPECTIVE JUROR: Nope.

16 THE COURT: Anyone else, first row?

17 Second row?

18 Ms. Seivwright?

19 PROSPECTIVE JUROR: My cousin.

20 THE COURT: What about your cousin?

21 PROSPECTIVE JUROR: Somebody killed her in the
22 house.

23 THE COURT: He was murdered?

24 PROSPECTIVE JUROR: She.

25 THE COURT: She was murdered?

Voir Dire

1 PROSPECTIVE JUROR: Yes.

2 THE COURT: It was a friend?

3 PROSPECTIVE JUROR: My cousin.

4 THE COURT: Cousin?

5 PROSPECTIVE JUROR: Yes.

6 THE COURT: Sorry, I didn't hear that.

7 How long ago was that?

8 PROSPECTIVE JUROR: Six years now.

9 THE COURT: And they ever apprehend the person
10 or persons?

11 PROSPECTIVE JUROR: No.

12 THE COURT: Was a weapon involved?

13 PROSPECTIVE JUROR: Stabbed, knife.

14 THE COURT: Stabbed?

15 PROSPECTIVE JUROR: Yes.

16 THE COURT: Who else?

17 Ms. Harris?

18 PROSPECTIVE JUROR: Robbed.

19 THE COURT: Was a weapon involved?

20 PROSPECTIVE JUROR: No.

21 THE COURT: What happened?

22 PROSPECTIVE JUROR: My phone was snatched out
23 of my hand while I was on it.

24 THE COURT: Your cellphone?

25 PROSPECTIVE JUROR: Uh-huh.

Voir Dire

1 THE COURT: Okay. Okay.

2 Who else?

3 Mr. Lamont?

4 PROSPECTIVE JUROR: Close friend was killed as
5 a result of fraternity hazing.

6 THE COURT: How did she die?

7 PROSPECTIVE JUROR: It was a he. It was
8 liquor hazing. They tied him to a chair and asked him
9 questions and every question he got wrong, he took a
10 shot, and he passed out.

11 THE COURT: Okay.

12 It was a fraternity?

13 PROSPECTIVE JUROR: Yes.

14 THE COURT: Okay.

15 Anyone else?

16 First row, any of you ladies and gentlemen
17 ever accused of or arrested or convicted of a crime or
18 someone close to you?

19 Anyone ever accused or convicted of a crime or
20 arrested, or someone close to you?

21 PROSPECTIVE JUROR: Someone close to me.

22 THE COURT: Mr. McNair?

23 PROSPECTIVE JUROR: Friend of mine by the name
24 of Antonio --

25 THE COURT: What happened?

Voir Dire

1 PROSPECTIVE JUROR: He was convicted for drug
2 sales.

3 THE COURT: Of what?

4 PROSPECTIVE JUROR: Drug sales.

5 THE COURT: Okay.

6 Federal, state court?

7 PROSPECTIVE JUROR: It was in St. Louis. I
8 believe it was federal.

9 THE COURT: Anyone else, first row?

10 Second row?

11 Mr. Lamont?

12 PROSPECTIVE JUROR: Cousin, for assault.

13 THE COURT: Cousin was convicted of assault?

14 PROSPECTIVE JUROR: Yes.

15 THE COURT: Did he go to jail?

16 PROSPECTIVE JUROR: Yes.

17 THE COURT: How long -- is he still in jail or
18 out of jail?

19 PROSPECTIVE JUROR: I think maybe four years.

20 THE COURT: What kind of weapon, or was there
21 a weapon?

22 PROSPECTIVE JUROR: I think it was with his
23 hands.

24 THE COURT: Anyone else?

25 Mr. Audige?

Voir Dire

1 PROSPECTIVE JUROR: Yes. Me, myself, as a
2 minor.

3 THE COURT: What were you arrested for?

4 PROSPECTIVE JUROR: Robbery.

5 THE COURT: How old were you at the time?

6 PROSPECTIVE JUROR: Seventeen.

7 THE COURT: What happened to the case?

8 PROSPECTIVE JUROR: It got sealed.

9 THE COURT: You got a YO, youthful offender?

10 PROSPECTIVE JUROR: I'm not sure what it was.
11 I know they sealed it. When I got out of the military,
12 I had to come here and the case was reopened and
13 sealed.

14 THE COURT: So you got arrested at seventeen
15 for robbery?

16 PROSPECTIVE JUROR: Correct.

17 THE COURT: Was there a trial or did you plead
18 guilty?

19 PROSPECTIVE JUROR: I took a plea bargain.

20 THE COURT: What?

21 PROSPECTIVE JUROR: I took a plea bargain.

22 THE COURT: You took a plea.

23 Was it a misdemeanor that you took?

24 PROSPECTIVE JUROR: No, it was a felony.

25 THE COURT: So did they give you youthful

Voir Dire

1 offender, which means you would be treated as a minor,
2 not as an adult?

3 PROSPECTIVE JUROR: Correct.

4 THE COURT: You got a YO? That is what that
5 is, youthful offender.

6 That's sealed?

7 PROSPECTIVE JUROR: Correct.

8 THE COURT: Anyone else?

9 All right.

10 First row, any of you, ladies and gentlemen,
11 related to, friendly or interact with any law
12 enforcement agents or attorneys?

13 Ms. Chung?

14 PROSPECTIVE JUROR: My nephew's a lieutenant.

15 THE COURT: Where?

16 PROSPECTIVE JUROR: 73rd Precinct.

17 THE COURT: 70...

18 PROSPECTIVE JUROR: 73rd Precinct.

19 THE COURT: He's a lieutenant, right?

20 PROSPECTIVE JUROR: Yes.

21 THE COURT: Anybody else?

22 Mr. McNair?

23 PROSPECTIVE JUROR: My sister practices family
24 law in California. She's an attorney.

25 THE COURT: Okay.

Voir Dire

1 Who else?

2 Mr. Lee?

3 PROSPECTIVE JUROR: Brother-in-law's brother
4 is a retired lieutenant.

5 THE COURT: Your brother-in-law is a retired
6 lieutenant?

7 PROSPECTIVE JUROR: Brother-in-law's brother.

8 THE COURT: Brother-in-law's brother?

9 PROSPECTIVE JUROR: Yeah.

10 THE COURT: Is a retired lieutenant N.Y.P.D.,
11 okay.

12 Who else?

13 Anyone else, first row?

14 Second row?

15 Ms. Harris?

16 PROSPECTIVE JUROR: My uncle's a retired
17 police officer in Massachusetts.

18 THE COURT: Anyone else?

19 Mr. McFarlane, can you be fair and impartial
20 in this case?

21 PROSPECTIVE JUROR: Yes.

22 THE COURT: Mr. McNair?

23 PROSPECTIVE JUROR: Yes.

24 THE COURT: Mr. Lee?

25 PROSPECTIVE JUROR: Yeah.

Voir Dire

1 THE COURT: Ms. Laing?

2 PROSPECTIVE JUROR: Yes.

3 THE COURT: Mr. Nolberto?

4 PROSPECTIVE JUROR: Yeah.

5 THE COURT: Mr. Phillips?

6 PROSPECTIVE JUROR: Yes.

7 THE COURT: Ms. Chung?

8 PROSPECTIVE JUROR: Yes.

9 THE COURT: Ms. Seivwright?

10 PROSPECTIVE JUROR: Yes.

11 THE COURT: Mr. Audige?

12 PROSPECTIVE JUROR: Yes.

13 THE COURT: Ms. Harris?

14 PROSPECTIVE JUROR: Yes.

15 THE COURT: Ms. Scott?

16 PROSPECTIVE JUROR: Yes.

17 THE COURT: Ms. Roberts -- Mr. Roberts?

18 PROSPECTIVE JUROR: Yes.

19 THE COURT: And Mr. Lamont?

20 PROSPECTIVE JUROR: Yes.

21 THE COURT: And Ms. Larson?

22 PROSPECTIVE JUROR: Yes.

23 THE COURT: All right, it's almost the

24 luncheon hour so we are going to take a break for the

25 lunch hour. Please do not discuss the case amongst

Voir Dire

1 yourselves or with anyone else. Please do not visit the
2 place where the alleged crimes occurred.

3 Have no contact with any of the parties
4 involved in this matter. If you see us, ignore us.

5 Do not resort to utilizing any digital
6 electronic devices for the purpose of obtaining any
7 information about this case or talking to anybody about
8 this case.

9 Return here at two o'clock.

10 Do not enter until the Court Officers direct
11 you to so enter.

12 Take all your belongings. You will exit
13 first, then those in the audience will follow.

14 Have a very good lunch. You are being excused
15 for lunch.

16 (Whereupon, the panel of prospective jurors
17 exited the courtroom.)

18 THE COURT: All right, those in the audience,
19 same instructions and return at two o'clock outside.

20 Do not enter unless Court Officers direct you
21 to enter.

22 Take all your belongings.

23 Thank you.

24 COURT OFFICER: Judge, what would you like me
25 to tell the jurors in the room?

Voir Dire

1 THE COURT: They're excused till 2:15.

2 Okay, two o'clock.

3 (Whereupon, a lunch recess was held.)

4 * * *

5 A F T E R N O O N S E S S I O N

6 * * *

7 THE CLERK: Case on trial continues. All
8 parties present. Defendant is present with her
9 attorney. We are missing Walensky.

10 (Whereupon, there was a brief pause in the
11 proceedings.)

12 THE COURT: Here he comes. Just get those who
13 are in the jury box first and then the rest.

14 COURT OFFICER: Jury panel entering.

15 (Whereupon, the panel of prospective jurors
16 entered the courtroom.)

17 THE COURT: Take your seats in the jury box,
18 please.

19 THE CLERK: Was anybody else seated in the
20 jury box that are seated in the audience?

21 THE COURT: Who's that, Phillips? Is it Ms.
22 Phillips?

23 See if she's outside.

24 MS. CHU: Marco Phillips.

25 THE COURT: A male, right, Mr. Phillips.

Voir Dire - People/Ms. Chu

1 (Whereupon, there was a brief pause in the
2 proceedings.)

3 THE COURT: There he is.

4 We'll proceed at this time.

5 Go ahead, Ms. Chu.

6 MS. CHU: Thank you.

7 Good afternoon, ladies and gentlemen.

8 Oh, oh, you guys had a big lunch, huh?

9 Good afternoon, ladies and gentlemen.

10 My name is Phyllis Chu and I am the attorney
11 who will be prosecuting this case should you be selected
12 as jurors.

13 Now, one of the things that the Judge said is
14 that ninety-three percent of the cases that he's ever
15 tried, most of it has evidence that comes in the form of
16 testimony. Now, you know what that means, right?

17 What does that mean, sir, testimony?

18 Can you accept that that's a form of evidence?

19 PROSPECTIVE JUROR: Yes.

20 MS. CHU: Anybody here?

21 Ms. Chung, how do you feel about that?

22 PROSPECTIVE JUROR: Yes.

23 MS. CHU: You okay with that?

24 PROSPECTIVE JUROR: Yes.

25 MS. CHU: What he said about C.S.I. and Law &

Voir Dire - People/Ms. Chu

1 Order, and they never show this jury selection part on
2 those things and they have little commercials and it's
3 tied up with a bow in an hour. If you want, you can
4 watch a marathon for the whole day, right. This is not
5 going to be it, okay.

6 You understand that the people that are going
7 to come before you to talk are not actors, they are not
8 paid, they don't have scripts?

9 Can you all understand that?

10 Now, how many, when you were selected, to just
11 call your name to come up here, felt nervous?

12 No one was nervous?

13 Come on, you gotta be nervous.

14 Well, do you think that everybody shows how
15 nervous they are in the same way?

16 Why not?

17 PROSPECTIVE JUROR: Different individuals,
18 different people.

19 MS. CHU: Some people might cry when they are
20 nervous, some people laugh when they are nervous.

21 Can you all accept and keep an open mind
22 when you're listening to whoever testifies to see
23 whether or not what they say makes sense first, before
24 you make a determination as to whether or not they're
25 telling the truth or not telling the truth? Can you

Voir Dire - People/Ms. Chu

1 all do that?

2 Now, if you're selected as a juror in this
3 case, I can tell you that this case involved just two
4 people, Mr. Wilson and the defendant, there were no
5 other eyewitnesses or anybody else present at the time
6 that the murder occurred and I wanted to let you know
7 that the majority of the evidence you are going to hear,
8 that goes -- that proves my case is going to actually
9 come from what the defendant said to different people,
10 all right.

11 Now, can any of you think of some things that
12 would affect -- let me ask you this.

13 The first thing I want to say is, how many of
14 you have ever had any interaction at all with police in
15 the city here?

16 Pretty much everybody, right?

17 And I would imagine that the range of your
18 experiences would go from either very bad to very good,
19 right?

20 Would you all say that you kind of fell within
21 that parameter?

22 PROSPECTIVE JUROR: Yes.

23 MS. CHU: Now, do you think that if someone is
24 speaking to the police about something that they're
25 suspected of doing, or just speaking to the police in

Voir Dire - People/Ms. Chu

1 general, that they might want to talk to the police? Do
2 you think that's a possibility? Yes?

3 PROSPECTIVE JUROR: Yes.

4 MS. CHU: You said yes or no?

5 PROSPECTIVE JUROR: Yes and no.

6 They might tailor what they say for gains.

7 MS. CHU: You think when talking to the police
8 they would put things in a light that's most favorable
9 to them?

10 PROSPECTIVE JUROR: Yes.

11 MS. CHU: That's possible?

12 PROSPECTIVE JUROR: Yes.

13 MS. CHU: Did you think there's a possibility
14 there might be some half truths, some whole truths and
15 mix it up? Do you think that's a possibility?

16 PROSPECTIVE JUROR: That is a possibility.

17 MS. CHU: Mr. Nolberto, too much lunch?

18 PROSPECTIVE JUROR: I'm okay.

19 MS. CHU: Now, what I want to ask you, do you
20 think that the relationship that the person has to who
21 they're talking to makes a difference in determining
22 whether or not they're telling the truth?

23 Why do you think that?

24 PROSPECTIVE JUROR: I am more likely to tell
25 the truth to someone that I know really close than

Voir Dire - People/Ms. Chu

1 someone --

2 MS. CHU: Than like law enforcement?

3 PROSPECTIVE JUROR: Yeah.

4 MS. CHU: Are you the kind of people, do you
5 think you guys are -- let me back up.

6 You ever -- whether or not you're telling the
7 truth, right, from the moment you get up to the moment
8 you to go sleep, you're interacting with different
9 people, right?

10 Remember, the Judge says you take your life
11 experiences, you bring them with you.

12 PROSPECTIVE JUROR: Yes.

13 MS. CHU: Now, how many of you think that you
14 are able to, if you were given or selected as a juror in
15 this case, take a statement that was given by the
16 defendant and compare it and contrast it to other
17 evidence that you are going to hear in this case to make
18 your own determination as to what parts she said that
19 might be true, what parts that might be false?

20 So, you're going to have to do a little work
21 if you're selected as jurors.

22 Does everyone think they are up for that
23 challenge?

24 Yes?

25 Yes?

Voir Dire - People/Ms. Chu

1 PROSPECTIVE JUROR: Yes.

2 MS. CHU: Ms. Chung, you okay with that?

3 PROSPECTIVE JUROR: It's difficult because I'm
4 not sure. I don't know how to put yourself to have
5 control of another person's thing. That's difficult for
6 me. So, it's -- I'm not sure.

7 MS. CHU: You're not sure if you can be a
8 juror in this case, is that what you're saying?

9 PROSPECTIVE JUROR: To keep going with the
10 evidence, to put your life experiences, because you're
11 not -- your life experience is not the same as the
12 defendant so what --

13 MS. CHU: What I meant by life experiences is
14 that if someone tells you something, someone gets on the
15 stand and says I heard the defendant say this, and what
16 they say matches with other evidence that you are going
17 to hear in this case, can you say, you know what, that
18 was supported by other evidence so I know that part was
19 true?

20 PROSPECTIVE JUROR: If it's supported by other
21 evidence, then you have to take it at face value.

22 MS. CHU: You have to take it at face value?

23 PROSPECTIVE JUROR: Uh-huh.

24 MS. CHU: Do you think kind of every person
25 can do that, like kind of resolve what someone's saying,

Voir Dire - People/Ms. Chu

1 what might be true and what parts might be false?

2 PROSPECTIVE JUROR: It -- I guess, yes.

3 MS. CHU: How about you, Ms. Seivwright, how
4 do you feel about that?

5 PROSPECTIVE JUROR: It all depends.

6 MS. CHU: All depends on what they say, if it
7 makes sense with all the other evidence, then you can
8 accept it, right?

9 Would you be able to do that?

10 PROSPECTIVE JUROR: Depends what the person
11 says, if it's true or not.

12 MS. CHU: I don't understand what you mean.

13 PROSPECTIVE JUROR: Depends on what the
14 witness says.

15 MS. CHU: If the witness tells you something
16 and what you hear from another witness supports what
17 that person says that the defendant said, would you be
18 able to say, okay, I know that part's true, or you have
19 to pick apart what they say to see what is true or not
20 true? Can you do that?

21 PROSPECTIVE JUROR: Maybe.

22 MS. CHU: Maybe.

23 Are you the kind of person that says I'm not
24 so good at that?

25 PROSPECTIVE JUROR: Yeah.

Voir Dire - People/Ms. Chu

1 MS. CHU: You're more like that?

2 PROSPECTIVE JUROR: Yes.

3 MS. CHU: Obviously there's no jury school,
4 you guys don't go away for six weeks and learn to be
5 perfect jurors. You guys use the same things that you
6 use every day, that is what you need to use when you're
7 here. There is no special ingredient. Who could be
8 better a juror than another juror?

9 All you have to do is just keep an open mind.

10 Can you all promise me you can do that and not
11 make a decision before the person testifies, about
12 whether or not you believe them or not, just wait and
13 hear what they say, see if it makes sense and kind of
14 see the other evidence you are going to hear? Can you
15 do that?

16 Now, the Judge told you that your job is to
17 be the determiners of the facts, meaning you have to
18 figure out what happened. He's in charge of the law,
19 right.

20 Now, if the Judge tells you that the burden is
21 always on me, are you going to promise me that you are
22 going to hold me to my burden of proving what I have to
23 prove beyond a reasonable doubt?

24 Can you all promise me that?

25 Now, on the flip side of that, there's certain

Voir Dire - People/Ms. Chu

1 things I don't have to prove, like I don't have to prove
2 what the weather was like for that period of time, I
3 don't have to tell you who won the lottery.

4 Are you all going to promise me that in
5 addition to holding me to my proving what I have to
6 prove, you will also not hold me to a burden of proving
7 something that I don't have to prove?

8 Do you understand what I'm asking you?

9 Is everybody okay with doing the same thing?

10 The last thing I want to talk about has to do
11 with sympathy. We can't -- I'm sorry.

12 If you all would just look at the defendant.
13 She's a young woman. Is there anyone here that thinks
14 that you wouldn't be able set aside how she appears in
15 your deliberations, in deciding what happened in this
16 case?

17 Everybody okay with, you know -- I mean,
18 somebody might say, you know what, she reminds me of my
19 sister, she reminds me of my daughter, whatever, that is
20 going to affect my ability to listen to the evidence in
21 this case?

22 Yes, Ms. Seivwright?

23 PROSPECTIVE JUROR: Yes.

24 MS. CHU: Would you have a problem with that?
25 You would not be able to separate that?

Voir Dire - People/Ms. Chu

1 PROSPECTIVE JUROR: No.

2 MS. CHU: How about you, Ms. Chung?

3 PROSPECTIVE JUROR: No, it's -- yes.

4 MS. CHU: Yes, you would be able to

5 separate that?

6 PROSPECTIVE JUROR: Uh-huh.

7 MS. CHU: How about you, Ms. Scott?

8 PROSPECTIVE JUROR: I will be able to.

9 MS. CHU: Ms. Seivwright, thank you for being
10 so honest.

11 When we get to really talking, do you feel as
12 though you might be like Ms. Seivwright, you know, what
13 I don't know, if I can separate that?

14 Everybody else is okay?

15 THE COURT: Thank you.

16 MS. CHU: Thank you.

17 THE COURT: Go ahead.

18 MR. WALENSKY: Anybody here think I have to
19 prove anything, that I have to prove that my client is
20 innocent?

21 Now, you understand, Mr. McFarlane, that this
22 isn't about guilt or innocence?

23 PROSPECTIVE JUROR: Yes.

24 MR. WALENSKY: Really, it's just about what
25 Ms. Chu had said, that she has the burden of proof, it's

Voir Dire - Defendant/Mr. Walensky

1 really only about her ability to prove her case beyond a
2 reasonable doubt.

3 Do you have any problems with that, Ms. Laing?

4 PROSPECTIVE JUROR: No, sir.

5 MR. WALENSKY: Because if the People are
6 presenting their evidence, the Judge will tell you what
7 beyond a reasonable doubt is, what the criteria is. If
8 they haven't proven the case, you would have to say not
9 guilty, wouldn't you, Ms. Harris?

10 PROSPECTIVE JUROR: Yes.

11 MR. WALENSKY: And Ms. Chu touched upon
12 police. We all react differently. Has anyone been
13 stopped and frisked?

14 Okay, Mr. Phillips. You felt pretty helpless,
15 right?

16 PROSPECTIVE JUROR: Pretty much.

17 MR. WALENSKY: The police are holding all the
18 cards, so to peak?

19 PROSPECTIVE JUROR: Pretty much.

20 MR. WALENSKY: Did you feel nervous, like you
21 had to talk to them?

22 PROSPECTIVE JUROR: Not really. I mean, I
23 know like the procedures. So I got stopped a few times,
24 I know the procedures.

25 MR. WALENSKY: But you don't have to talk to

Voir Dire - Defendant/Mr. Walensky

1 them if they ask you questions?

2 PROSPECTIVE JUROR: Sometimes. It depends.

3 MR. WALENSKY: Now, but they were essentially
4 controlling that entire situation, right?

5 PROSPECTIVE JUROR: Uh-huh.

6 MR. WALENSKY: You are not going to resist
7 because it would be foolish?

8 PROSPECTIVE JUROR: Exactly.

9 MR. WALENSKY: Now, people have -- we talk
10 about witnesses and being able to speak and listen and
11 evaluate a witness.

12 Now, Ms. Larson -- well, withdrawn.

13 Everybody --

14 Anybody here know somebody who abuses drugs or
15 alcohol?

16 Okay, Ms. Harris. Now, that person might be
17 abusing -- I'm not asking who or anything -- that person
18 who abuses drugs or alcohol, they are not always lucid,
19 would you agree?

20 PROSPECTIVE JUROR: Correct.

21 MR. WALENSKY: And the longer that somebody
22 abuses a substance, the less lucid they are about
23 everyday events?

24 MS. CHU: Objection.

25 THE COURT: Objection sustained.

Voir Dire - Defendant/Mr. Walensky

1 MR. WALENSKY: In your experience.

2 MS. CHU: Objection.

3 THE COURT: Sustained.

4 MR. WALENSKY: All right.

5 THE COURT: Sustained.

6 MR. WALENSKY: Okay.

7 Now, there are -- you understand that in terms
8 of burden of proof, if I had to prove anything it would
9 change that burden. Do you understand that concept, Mr.
10 Lamont?

11 PROSPECTIVE JUROR: Yes.

12 MR. WALENSKY: And the reason is you know we
13 are --

14 Where were you, Ms. Seivwright, three weeks
15 ago at 3:00 in the morning? Don't know, right?

16 PROSPECTIVE JUROR: Don't remember.

17 MR. WALENSKY: Do you live alone?

18 PROSPECTIVE JUROR: Yeah.

19 MR. WALENSKY: So someone says, well, where
20 were you, you'd say I was home, I was asleep. Well,
21 prove it.

22 How can I prove it?

23 You understand? Somebody is saying you're
24 guilty of something, that would change the burden. You
25 see?

Voir Dire - Defendant/Mr. Walensky

1 THE COURT: Let's get away from this. Don't
2 go off on the burden. Go on to something else, all
3 right.

4 MR. WALENSKY: Anyone who has a problem
5 sitting on a case because of the subject matter?

6 PROSPECTIVE JUROR: I probably would.

7 MR. WALENSKY: You would, okay.

8 Because of the nature?

9 PROSPECTIVE JUROR: This makes me really
10 uncomfortable.

11 THE COURT: It makes you uncomfortable, but
12 can you sit if you're chosen and be fair and impartial?

13 PROSPECTIVE JUROR: Yes, I can.

14 THE COURT: A lot of things make people
15 uncomfortable. That's life.

16 You understand that?

17 PROSPECTIVE JUROR: Yeah.

18 THE COURT: Proceed.

19 MR. WALENSKY: Essentially, Mr. Lee, if you're
20 chosen will you be able to look at the evidence and if
21 called for give a verdict of guilty?

22 PROSPECTIVE JUROR: Yes.

23 MR. WALENSKY: If called for, to give a
24 verdict of not guilty? Do you understand?

25 It's not a matter of a feeling.

Voir Dire - Defendant/Mr. Walensky

1 Ms. Scott, you might say, gee, I think that
2 the person is guilty but they haven't proven their case
3 beyond a reasonable doubt, you'd have to say not
4 guilty.

5 PROSPECTIVE JUROR: Yes.

6 MR. WALENSKY: They might not have proven the
7 case, I have all kinds of questions, if they haven't
8 proven their case beyond a reasonable doubt, you would
9 have to say not guilty, wouldn't you?

10 PROSPECTIVE JUROR: No.

11 MR. WALENSKY: I am going to --

12 There are no bosses here. I ask you to take
13 the time, if you're selected, that would be necessary.
14 Is there anyone here who has a pressing schedule?

15 We all have things we have to do. What I am
16 concerned about in the jury room, it's I can't sit here
17 any more, whether it's an eleven to one for conviction
18 or an eleven to one for acquittal, changing not because
19 of someone convincing you but because of time factors.
20 Is there anyone who wouldn't be able to sit on the jury
21 with the total commitment necessary?

22 PROSPECTIVE JUROR: You mean the hours or
23 from --

24 MR. WALENSKY: It could be days. It takes
25 however long it takes, until the Judge --

Voir Dire - Defendant/Mr. Walensky

1 THE COURT: The fact is, ladies and
2 gentlemen --

3 The question really is, if you have a
4 particular view of the evidence and a particular view of
5 guilt or non-guilt of the defendant, are you going to
6 change your opinion merely because of time
7 considerations? Are you going to say, oh, I gotta get
8 out of here, I gotta go somewhere, or are you going to
9 have those time constraints affect your judgment?

10 In other words, is that going to affect your
11 ability --

12 PROSPECTIVE JUROR: My only thing is if -- I
13 take a class on Tuesday and Thursday from 6:00 to 9:30
14 at night.

15 THE COURT: I forgot to tell you, we don't
16 have sequestration so you will not be kept overnight.

17 PROSPECTIVE JUROR: Okay.

18 THE COURT: But if you're in a situation, like
19 the attorney said, where it's -- you're the lone person
20 holdout whether for guilt or non-guilt and you just
21 change your mind because it's convenient or because it's
22 a time consideration, are you going to do that?

23 PROSPECTIVE JUROR: No, no, no.

24 THE COURT: All right, go ahead.

25 Anybody going to do that?

Voir Dire - Defendant/Mr. Walensky

1 MR. WALENSKY: Ms. Seivwright, you had some
2 question. Were you going to raise your hand about
3 something?

4 PROSPECTIVE JUROR: I think I don't feel
5 comfortable.

6 THE COURT: You indicated that you are not
7 comfortable, right?

8 PROSPECTIVE JUROR: No.

9 THE COURT: All right. Let's continue.

10 MR. WALENSKY: Thank you.

11 I have no further questions. Thank you,
12 ladies and gentlemen.

13 THE COURT: Ladies and gentlemen, I am going
14 to ask you to step outside. Do not discuss the case
15 amongst yourselves or anyone else. Do not visit the
16 place or premise. You don't have to do that. Just step
17 outside and do not engage in any conversation. We'll
18 call you back in, in a few minutes.

19 (Whereupon, the panel of prospective jurors
20 exited the courtroom.)

21 THE COURT: All right, those ladies and
22 gentlemen in the audience, same instruction, we'll ask
23 you to vacate your seats and we'll call you back in a
24 few minutes.

25 Do not disappear.

Voir Dire

1 (Whereupon, the panel of prospective jurors
2 exited the courtroom.)

3 THE COURT: All right, let's go.

4 First two, cause?

5 MS. CHU: No.

6 THE COURT: Cause?

7 MR. WALENSKY: No.

8 THE COURT: All right.

9 Perempt?

10 MS. CHU: None.

11 THE COURT: Perempt?

12 MR. WALENSKY: No.

13 THE CLERK: Kingsley McFarlane is juror number
14 eleven.

15 THE COURT: And McNair is number twelve, all
16 right.

17 All right.

18 First alternate, Lee, cause?

19 MS. CHU: No.

20 THE COURT: Cause?

21 MR. WALENSKY: No.

22 THE COURT: Perempt?

23 MS. CHU: No.

24 THE COURT: Perempt?

25 MR. WALENSKY: Yes.

Voir Dire

1 THE COURT: Perempt defense.

2 Laing, cause?

3 MS. CHU: No.

4 THE COURT: Cause?

5 MR. WALENSKY: No.

6 THE COURT: Perempt?

7 MS. CHU: No.

8 THE COURT: Perempt?

9 MR. WALENSKY: Yes.

10 THE COURT: Then you're out. I mean, you have
11 no further challenges except for --

12 THE CLERK: You challenged Lee and Laing.

13 MR. WALENSKY: Yes.

14 THE COURT: Nolberto, cause?

15 MS. CHU: No.

16 THE COURT: Cause?

17 MR. WALENSKY: No.

18 THE COURT: Perempt?

19 MS. CHU: Yes.

20 THE COURT: That's it for the People.

21 MS. CHU: Sorry, can you just give me one
22 moment? My pen ran out of ink.

23 THE COURT: Phillips, cause?

24 MS. CHU: Phillips, no.

25 THE COURT: Cause?

Voir Dire

1 MR. WALENSKY: No.
2 THE COURT: Perempt?
3 MS. CHU: No.
4 THE COURT: All right, that's alternate one.
5 All right, Larson, cause?
6 MS. CHU: No.
7 THE COURT: Cause?
8 MR. WALENSKY: No.
9 THE COURT: Perempt?
10 MS. CHU: No.
11 THE COURT: Perempt?
12 MR. WALENSKY: No.
13 THE COURT: All right, so she's alternate two.
14 I'll do one more.
15 Lamont, cause?
16 MR. WALENSKY: No.
17 THE COURT: Wait a minute.
18 People?
19 MS. CHU: No.
20 THE COURT: No, defense?
21 MR. WALENSKY: No.
22 THE COURT: Perempt?
23 MS. CHU: No.
24 THE COURT: Perempt?
25 MR. WALENSKY: Yes.

Voir Dire

1 THE COURT: Roberts, cause?
2 MS. CHU: No.
3 THE COURT: Cause?
4 MR. WALENSKY: No.
5 THE COURT: Perempt?
6 MS. CHU: No.
7 THE COURT: Cause?
8 MR. WALENSKY: No.
9 THE COURT: Roberts is selected.
10 Alternate two -- three.
11 MS. CHU: You want to do a fourth one, just in
12 case?
13 THE COURT: No.
14 MS. CHU: We are going to have four days off.
15 THE COURT: You want a fourth one?
16 MS. CHU: We're going to be out four days.
17 Thursday, Friday, Saturday, Sunday, Monday, five days,
18 actually.
19 THE COURT: Scott, cause? Cause, yes or no?
20 MR. WALENSKY: No.
21 MS. CHU: No.
22 THE COURT: Perempt?
23 MS. CHU: I perempt her.
24 THE COURT: Let's see.
25 People, Harris, cause?

Voir Dire

1 MS. CHU: No.

2 THE COURT: Cause?

3 MR. WALENSKY: No.

4 THE COURT: Perempt?

5 MS. CHU: No.

6 THE COURT: Perempt?

7 MR. WALENSKY: No.

8 THE COURT: That's alternate four.

9 All right, let's go.

10 MS. CHU: Thank you.

11 THE COURT: Get the panel, put them in the
12 front.

13 COURT OFFICER: All the jurors?

14 THE COURT: No, just the panel.

15 MR. WALENSKY: Before we open I would like to
16 use the restroom.

17 THE COURT: You don't have any witnesses
18 today?

19 MS. CHU: I do. I have a Crime Scene guy.

20 COURT OFFICER: Jury panel entering.

21 (Whereupon, the panel of prospective jurors
22 entered the courtroom.)

23 THE COURT: All right, let's go.

24 COURT OFFICER: We're missing one.

25 (Whereupon, there was a brief pause in the

Voir Dire

1 proceedings.)

2 COURT OFFICER: He went to the restroom.

3 THE COURT: All right, let's go.

4 THE CLERK: All right, ladies and gentlemen,
5 if you hear your name called that means you have been
6 selected to serve as a juror. If you do not hear your
7 name called, you're excused with the thanks of the
8 Court. Go back to the second floor, Central Jury, if
9 you don't hear your name called. If you hear your name
10 called, please say "here" or "present."

11 Juror number eleven will be Kingsley
12 McFarlane.

13 PROSPECTIVE JUROR: Here.

14 THE CLERK: Juror number twelve, William
15 McNair.

16 You have to say "here" or "present."

17 PROSPECTIVE JUROR: Here.

18 THE CLERK: Alternate one, Marco Phillips.
19 Alternate two, Leslie Larson.

20 PROSPECTIVE JUROR: Here.

21 THE CLERK: Alternate three, Jerlanie
22 (phonetic) Roberts.

23 PROSPECTIVE JUROR: Here.

24 THE CLERK: And alternate four, Sarah Harris.

25 PROSPECTIVE JUROR: Here.

Proceeding

1 THE CLERK: The rest of you can go back to
2 Central Jury, second floor.

3 THE COURT: Line up the other jurors, please.

4 THE CLERK: Will the six of you rise and raise
5 your right hand.

6 Do each of you sincerely and solemnly swear or
7 affirm that you will try this case in a just and
8 impartial manner to the best of your judgment and you
9 will render a verdict according to the law and evidence?

10 Your response?

11 (Whereupon, the jurors responded.)

12 THE CLERK: Have a seat for right now.

13 The rest of the jurors can be excused.

14 COURT OFFICER: Down to two?

15 THE CLERK: Yes.

16 (Whereupon, there was a brief pause in the
17 proceedings.)

18 THE COURT: All right, have the jurors seated.

19 COURT OFFICER: One of them is using the
20 restroom.

21 THE COURT: Okay.

22 (Whereupon, there was a brief pause in the
23 proceedings.)

24 COURT OFFICER: Ready for the panel?

25 THE COURT: They're lined up?

Proceeding

1 COURT OFFICER: Yes.

2 THE COURT: Bring them in.

3 COURT OFFICER: Jury entering.

4 (Whereupon, the Jury entered the courtroom.)

5 THE COURT: All right, the rest of the jurors,
6 fill the box.

7 Come on guys, let's go.

8 THE CLERK: Juror number eleven is Kingsley
9 McFarlane.

10 THE COURT: Come on up, sir. Come around.

11 THE CLERK: Juror number twelve, William
12 McNair.

13 Alternate number one, Marco Phillips.

14 Alternate two, Leslie Larson.

15 Alternate three, Jerlanie Roberts.

16 And alternate four, Sarah Harris.

17 THE COURT: Juror number one, your name?

18 PROSPECTIVE JUROR: Avelon Ramnath.

19 THE COURT: Ms. Ramnath, you are going to be
20 the foreperson of the jury. In other words, you will
21 have no greater powers or less powers than any other
22 juror except at the close of the case you will read the
23 verdict. You understand that's what your job will be,
24 okay?

25 PROSPECTIVE JUROR: Okay.

Proceeding

1 THE COURT: Okay. Very good.

2 All right, madam forelady, ladies and
3 gentlemen of the jury, at this point I am required to
4 instruct you generally concerning your basic functions,
5 duties and conduct and to acquaint you in a general way
6 with the trial procedure and certain rules which apply
7 to every jury so that you will be better able to assess
8 and weigh the evidence as it is presented and reach a
9 proper verdict.

10 The trial commenced with the selection of the
11 jury. The next step in the trial will be an opening
12 statement by the People, represented by the Assistant
13 District Attorney, during which she's required by law to
14 indicate to you what she intends to prove by way of
15 evidence to support the charges set forth against this
16 defendant.

17 Following that, defense counsel, if he
18 desires, may also make an opening statement, but what
19 counsel for either party says in an opening statement is
20 not evidence. You may consider the opening statement as
21 merely a preview of what each side intends to show by
22 way of evidence in the case.

23 After the opening statement or statements, the
24 Assistant District Attorney will present a witness or
25 witnesses who will be questioned by her. This is called

Proceeding

1 direct examination. After the Assistant District
2 Attorney completes her questions, defense counsel will
3 be given an opportunity to question the witness. This
4 is called cross-examination. After the People have
5 concluded the calling of their witnesses and
6 introduction of any exhibits which are admissible into
7 evidence, the defendant may offer evidence in his
8 defense.

9 After the defendant rests and People rest, the
10 defendant may make a closing argument following which
11 the People may make a closing argument, then I will
12 charge you on the law, then you will retire to
13 deliberate for purpose of reaching a verdict. That is a
14 general outline of trial procedure.

15 For the most part, evidence consists of
16 testimony of witnesses under oath and exhibits which are
17 introduced into evidence. Questions in and of
18 themselves are not evidence. Therefore, you cannot
19 infer any facts from the mere asking of a question. It
20 is the answer coupled with the question that constitutes
21 evidence.

22 For example, if a witness was asked a
23 question, do you own an automobile, and the witness
24 answered no, you cannot and you may not infer from his
25 answer that he in fact owns an automobile.

Proceeding

1 During the course of the trial either
2 attorney, Assistant District Attorney or the defense
3 counsel, may object to a question or an answer on the
4 ground that somehow it is legally improper or
5 inadmissible. If I sustain the objection, this means
6 that I believe that the question and the answer is in
7 some manner improper, therefore in the first instance
8 the question may not be asked, in the second instance,
9 if an answer has been given, I will say "strike it out,"
10 therefore the answer is no longer evidence in the case.
11 If I overrule the objection, that means that the
12 question is proper and I will permit it to be answered,
13 or if already answered, I will permit the answer to
14 stand as evidence in the case.

15 Please do not resent the fact that either
16 attorney makes objections, this is their duty, and do
17 not hold it against either attorney if I rule against
18 them.

19 As I have explained to you in detail in my
20 charge, as jurors in this case you are the sole judges
21 of the facts and I am the sole judge of the law. You
22 must accept the law as I give it to you without
23 hesitation or reservation, even if you privately
24 disagree with me.

25 You must keep an open mind, you must not speak

Proceeding

1 or talk among yourselves or with anyone else on any
2 subject connected with the trial.

3 You must not either offer nor express an
4 opinion as to the guilt or non-guilt of the defendant
5 until I finally give the case to you.

6 You must not read or listen to any account or
7 discussion of the case in the event that it's reported
8 in newspapers or other media.

9 Now, ladies and gentlemen, this admonition by
10 the Court that you are not to discuss the case amongst
11 yourselves or with anyone else is probably the most
12 difficult to comply with because it's counterintuitive,
13 it's counter to human nature. When people are thrown
14 together for a short period of time, the natural thing
15 is if they hear or see something, one turns to the
16 other, did you hear that, did you see that, and they
17 start talking about it. You are not allowed to do
18 that while the case is in progress. You are not allowed
19 to do that when you leave here. You are not allowed to
20 do that when you go home. And when you go home, it's
21 probably going to be even more difficult because
22 probably if you have somebody at home, they're going to
23 be saying, oh, you are on a trial, what kind of case is
24 it? You say, I can't tell you. Why? Because the Judge
25 instructed us that we are not to discuss the matter till

Proceeding

1 the matter is over. And the fact of the matter is,
2 ladies and gentlemen, I'm sure whoever is at home will
3 understand, you say this case is not going to be going
4 for a very long period of time, in fact we're only
5 meeting about three days this week, today and Tuesday
6 and Wednesday, then a couple of days maybe next week,
7 all right, after the holiday. So, you gotta be
8 resolute, you say, listen, I will tell you all about it
9 once it's over with, all right.

10 You must not visit or view the premises or
11 places where the alleged crime was committed or any
12 other premise or places involved in the case. Promptly
13 report any incident within your knowledge involving any
14 attempt by any person who seeks to improperly influence
15 any member of the jury. Also, you are not to have any
16 contact with any of the parties involved in this matter.
17 You know, you come in the morning -- this, again, is
18 counterintuitive because people who are thrown together
19 for a period of time, they like to exchange normal civil
20 amenities, good morning, how are you, nice day, blah,
21 blah, you are on your way, right. Let's assume Ms.
22 Ramnath comes in the morning and Ms. Chu is in the
23 hallway and she wants to say hello and, well, the fact
24 is that's not permitted. Although her intentions are
25 very innocent, she just wants to be nice and friendly,

Proceeding

1 she is not allowed to do that. You're not allowed to
2 even, when you pass me or anybody else involved here, go
3 "hi," anything like that. Don't arch your eyebrow. You
4 are not allowed to do that, all right. Because, in
5 effect, it's a violation of a rule that we call the
6 appearance of impropriety. You're not doing anything
7 wrong, you're trying to be nice and you're not allowed
8 to do that also, and until you are discharged from
9 service, then you can speak to anybody you wish or you
10 can have anybody you wish speak to you, and that will
11 rest within your discretion, okay.

12 Another thing I'm always asked, if they may
13 take notes. I am going to permit you to take notes.
14 You will be provided with pens and a notebook so that
15 you may take these notes. You are not required to take
16 notes. Whether you choose to take notes, it's entirely
17 up to you. Each individual must decide for yourselves
18 whether taking notes assist you in refreshing your
19 recollection of the proceedings. Now, some people may
20 find it difficult to take notes and also pay attention
21 to the trial. You should not feel any pressure to take
22 notes because some fellow jurors may choose to do so.
23 If you are note taking and you feel because of the note
24 taking you will not be able to concentrate on the
25 proceedings, then feel free not to take notes. If you

Proceeding

1 do decide to take notes, you must be careful not to let
2 your note taking become a distraction from the
3 proceedings.

4 You must bear in mind that notes are merely an
5 aide to your memory, they are for your personal use
6 alone, to help you refresh your recollection of the
7 evidence, but they are not superior to any juror's
8 independent recollection of what took place during the
9 proceedings. Most importantly, they are not a
10 substitute for the official record of the proceedings
11 which is assembled by the Court Reporter, this young
12 lady right here. If you remember what occurred during
13 the proceedings is different than what you have written
14 in your notes, you should request a readback of the
15 transcript. If there is a difference between your notes
16 and the official transcript of the proceedings, you must
17 rely on the official transcript and not the notes.

18 This rules applies not only to evidence but
19 also to any differences that might exist between your
20 notes and the official record of my instructions on the
21 principles of law that govern the case.

22 If you do not take notes, you should rely on
23 your own recollection of the evidence and my
24 instructions on the law and you must not be swayed by
25 the fact that another juror may have notes indicating

Proceeding

1 that the evidence or the Court's charge on the law was
2 different than you recall.

3 If there is a dispute about the evidence or
4 the Court's instructions, jurors can request a readback
5 of the transcript to resolve the dispute. You must
6 rely on the official transcript. The notebooks will be
7 collected during the lunch breaks and at the end of
8 the day during the trial. The notes will be stored in
9 a secure place for safekeeping and no one will read
10 them.

11 All right, you may proceed with your opening.

12 THE CLERK: Judge.

13 (Whereupon, there was a brief pause in the
14 proceedings.)

15 THE COURT: Before we proceed, raise your hand
16 if you want the notebooks, we will distribute them and
17 the pens and pencils.

18 (Whereupon, there was a brief pause in the
19 proceedings.)

20 THE COURT: If you don't have a pencil or pen,
21 we will go get you one.

22 (Whereupon, there was a brief pause in the
23 proceedings.)

24 THE COURT: Okay, you may proceed.

25 MS. CHU: Thank you.

Opening - People/Ms. Chu

1 Good afternoon, ladies and gentlemen.

2 On January 3rd, 2012 the body of Anthony
3 Wilson was found dead inside of his apartment at 832
4 Bushwick Avenue. Through the course of this trial
5 you're going to learn how the evidence will lead you to
6 come to the same conclusion, beyond a reasonable doubt,
7 that it was Atara Wisdom who was responsible for his
8 intentional murder.

9 Now, the way this all gets started is that
10 the police get called by Mr. Wilson's landlord, Donet
11 Robinson, and Mr. Robinson tries to -- he hadn't seen
12 the victim in a while, he gets the key that he has to
13 the apartment, he goes inside -- this is January 3rd.
14 When he enters, he finds Mr. Wilson on his bed, dead,
15 naked, there's a wreck in the house, the apartment is
16 ransacked, it's got blood smears on the floor, there's
17 clothing on the floor, there's feces on the floor.
18 So, he immediately calls 911 and the police arrive.

19 Now, you are going to learn that Police
20 Officers Marsden and Ortiz, they come from the 83rd
21 Precinct, they get called by the 911 operator to go to
22 the location to check it out. When they get there,
23 they confirm that Mr. Wilson is definitely in need of
24 assistance, they call for an ambulance and an ambulance
25 confirms that he's dead and has been dead for sometime.

Opening - People/Ms. Chu

1 Now, the officers, Marsden and Ortiz, they
2 continue to secure the scene. What this means, they
3 tried and preserve the apartment as close to how it was
4 when they initially got there, so they don't let anybody
5 go in and out.

6 Basically it's a studio apartment, there's a
7 bed in there, there's a TV, there's a kitchen area, then
8 there's a bathroom. It's a very small apartment. It's
9 about nineteen by fifteen, and that encompasses
10 everything.

11 So, what you will learn is that Detective
12 Markoski, along with his partner, are assigned from the
13 Crime Scene Unit. When they first arrive, they'd seen
14 that everything has been secured by officers from the
15 83rd Precinct, they recover some of the clothing that
16 was on the floor inside the apartment next to where the
17 body was, they take photographs, they take measurements,
18 they actually take swabs of blood that's found
19 throughout the apartment and they arrange to have that
20 sent for testing.

21 Now, in the meantime, Mr. Wilson's body was
22 taken to the morgue. He's pronounced by EMS people,
23 he's taken to the Medical Examiner's Office where Frede
24 Frederic, who used to be with the Medical Examiner's
25 Office, she's since retired, she actually conducted an

Opening - People/Ms. Chu

1 autopsy on Mr. Wilson's body. What she finds is that he
2 has seven stab wounds to his body. He's got six in the
3 front of him and one in the back, and the ones that
4 really did the most damage, because there is -- there
5 was one to the right chest that was maybe a half inch,
6 the one in the back went in about two inches but it
7 didn't puncture any of the major organs. Mr. Wilson's
8 body, what you're going to learn, is that the five
9 wounds that were on the left side of Mr. Wilson's body
10 all went in about a depth of five to six inches. What
11 it did was, all of those stab wounds, they perforated
12 one of the parts of his heart, they also perforated his
13 left lung, and that's what the cause of death was for
14 Mr. Wilson.

15 And they found various evidences that the body
16 had already started to decompose, had been there for
17 some time and that there was partial mummification of
18 parts of the body, and also there were like maggots and
19 stuff in the body, that shows how far along the
20 decomposition had taken place.

21 Now, from Detective Geoffrey Hernandez, he was
22 the assigned detective who was in charge of that
23 investigation, and he along with Detective Christopher
24 Scandole from Brooklyn North Homicide, began to
25 investigate to try to figure out what happened to Mr.

Opening - People/Ms. Chu

1 Wilson. So one of the people that they spoke to was a
2 person by the name of Matthew Shepard. And you are
3 going to learn that Matthew Shepard knew the victim but
4 he also knew the defendant, and he knew that she had
5 been staying with the victim. When he got a phone call
6 from her around -- he didn't remember exactly the time,
7 it was a couple of weeks before, he wasn't really sure
8 of the time, but a couple of weeks before he actually --
9 I'm sorry -- they found the body of Mr. Wilson. And he
10 said that sometime around Thanksgiving he had actually
11 met her and he had explained he was interested in her,
12 if she could get away from the guy, from Tony, who's the
13 victim, he was interested in dating her. And what
14 happens is she calls him early in the morning and she
15 says, I'm in a -- I have a problem, I'm in a situation,
16 and she tells him, can I meet you.

17 And so he agrees to meet her and he meets her
18 in Bushwick. When he meets her, she has four big bags
19 with her.

20 What are you, like a homeless lady, he goes?
21 What happened? You with Anthony?

22 And she was like I was paying him rent and he
23 wanted to have sex with me and I wasn't having that so I
24 poked him.

25 What you'll learn, in street terms that means

Opening - People/Ms. Chu

1 she stabbed him. And Mr. Shepard goes, well, you can't
2 stay with me but you can hang out in my house until you
3 get -- somebody gets you, and he said that is all he
4 talked about with her, he didn't want to have any
5 further conversations. That was the last time that he
6 had seen her.

7 Now, Mr. Shepard had been spoken to around
8 the time that Mr. Wilson's body was recovered. Now,
9 from Mr. Shepard they find out what Mr. Wilson's
10 cellphone number was. They begin to get phone records
11 for that number. What you'll learn, and you're actually
12 going to hear from a representative from Sprint Nextel
13 who will give you and show you, these are the records
14 that are kept there, it shows you all the call details.
15 What they learned from those call details is that on
16 November 29th, 2011, at approximately 12:37 A.M. Anthony
17 Wilson's number calls 911. And you're going to actually
18 hear that 911 call that was made by Mr. Wilson. What he
19 said was, I got this girl in my house, I don't know
20 what's wrong with her, she's acting crazy and I want her
21 out.

22 You are going to actually hear the final words
23 that were said by Mr. Wilson presumably before he is
24 murdered by the defendant.

25 In the meantime, the blood samples that had

Opening - People/Ms. Chu

1 been sent to the lab from -- remember, Detective
2 Markoski gets the swabs from throughout the apartment
3 and sends them to the lab and has them tested. You are
4 going to learn from Sarah Philipps, who's a criminalist
5 at the Office of the Chief Medical Examiner, in their
6 DNA department, that she had tested those samples and
7 she found some of the samples belonged to Mr. Wilson but
8 two of the samples that came from the bathroom belonged
9 to a female unknown donor. And what happened was
10 they're able to get take an unknown sample, they label
11 it, they term it female donor A. They have an unknown
12 sample, they can't figure out who it is, they upload it
13 into the system and when they get that back it comes
14 back with a DNA hit to Atara Wisdom.

15 So, they begin to look for her, and in July
16 2012 -- this is now -- if the 911 call was November
17 29th, 2011, we are talking about more than six months
18 later, July of 2012, they locate Ms. Atara Wisdom at a
19 homeless shelter and they bring her back to the 83rd
20 Precinct for questioning.

21 Now, what you're going to learn is by now
22 Detective Geoffrey Hernandez, who was with the 83rd
23 Precinct, he's now with Brooklyn North Homicide, so his
24 case has gotten transferred to a new detective by the
25 name of Deborah Batanjani and they -- they bring the

Opening - People/Ms. Chu

1 defendant back to the precinct, they read her Miranda
2 rights. After she agrees to speak with them, what she
3 told the detectives is that she had needed a place to
4 stay and had moved in. Wisdom's doctor's office was
5 over on Broadway and he met over there, he would give
6 her money, and when he used crack, when he smoked, he
7 would become a different person.

8 She said one night when she was sleeping she
9 woke up, he was touching her under her shirt and she
10 told him it's not like that and that's not why she was
11 there. She got into an argument and she had left.

12 She then tells the detectives, then around
13 Thanksgiving they got into another argument, it got very
14 heated and loud, so she left and went to her sister's
15 house for a couple of days. She tells the detectives
16 she spoke with the victim on the phone a couple of times
17 and had gone back to the apartment to get clothes
18 because she had an interview set up for the following
19 day.

20 She said when she arrived he was acting okay,
21 like how he was when she first met him, and later that
22 night she was on the couch getting her clothes and he
23 tells her, oh, I am going to get some -- excuse the
24 word -- pussy tonight.

25 And she said, oh, well, then let me get out

Opening - People/Ms. Chu

1 the way.

2 She tries to get her stuff and get out. What
3 he does, she says he stands in front of the exit of his
4 apartment and says, nah, nah, you're not going, and he
5 takes -- she says he takes something like a pink belt
6 and wrapped his hand. He doesn't do anything with the
7 belt. She then picks up a knife. She says she puts it
8 under her sweater. When he punches her in the face when
9 she stood up, he pulls the sweater up and starts
10 punching her on the shoulder and back, and over her
11 head, he started to push her head down to the floor.
12 She said she thought if it hits the floor, she's going
13 to be dead, so she takes out the knife and she stabbed
14 at him, then she ran into the bathroom, she saw she had
15 a big knot to her head, her shoulder was all bruised,
16 she got her stuff together and in a duffle bag and went
17 to Ebony's house. That's the statement she initially
18 gives to the detectives.

19 After this she takes the statement -- the
20 detectives actually write what it is she said to them
21 and they read it to her, she then looks at it to make
22 sure it's accurate, then she signs it and the detective
23 signs.

24 You're actually going to see the written
25 statement that was written by the detective.

Opening - People/Ms. Chu

1 The detective then arranges to have a lineup
2 with Atara Wisdom and contacts Mr. Shepard to come to
3 the precinct, and when Mr. Shepard views the lineup, he
4 identifies the defendant in position number two as the
5 person he knew as Renee. Now, he didn't know --
6 actually, he said her name Renee. He identifies Atara
7 Wisdom as the same woman who called him early in the
8 morning and met with him and told him she poked Anthony
9 because he wanted sex and rent.

10 Now, the defendant was then asked if she wants
11 to talk to the District Attorney's Office, which she
12 agrees to do. You are going to hear A.D.A. Ed Purce
13 then responds to the precinct, he actually speaks to
14 her. You are going to see on video the conversation
15 that was had between the defendant, Atara Wisdom, and
16 A.D.A. Ed Purce. And in essence she says something
17 along the same lines that she told the detective, now
18 she is not mentioning Ebony, now there was a Tiffany
19 that she had stayed with, she told Tiffany what had
20 happened to her.

21 Now, she also tells the detectives that some
22 time after she stabbed him, when she came out of the
23 bathroom she saw him lying on the bed, she picked up his
24 phone, his keys and his wallet when she left because she
25 was using his phone and called someone but she was in a

Opening - People/Ms. Chu

1 fog, she doesn't remember who it was she called.

2 She walked around for a while, she threw out
3 his keys, she kept his wallet but didn't use anything in
4 it and she had gone to Tiffany's house on Rutland and
5 East 93rd, stayed there for a couple of days and then
6 she kept using his phone but then threw it out, and she
7 said his benefits card, the Welfare benefits card, she
8 denied ever using it.

9 You are going to actually hear from the
10 Welfare, I guess it's Human Resources Administration
11 responsible for Welfare benefits cards, there actually
12 is activity on Mr. Wilson's benefit card after the
13 date of November 29th, 2011 and it shows consistent
14 areas with where the defendant used to use her benefits
15 card.

16 Now, that is what the case is all about,
17 ladies and gentlemen. You are going to hear from
18 detectives and officers who responded and investigated
19 this case. You are going to hear from the ME, or the ME
20 who's going to tell you what the injuries were to Mr.
21 Wilson and show what his cause of death was. You're
22 going to hear from the crime scene detectives that
23 process the scene, see pictures of the actual apartment,
24 and after you hear all this evidence, I am going to come
25 back here before you and show you how the evidence

Opening - Defendant/Mr. Walensky

1 proves that the defendant, Atara Wisdom, intentionally
2 killed Anthony Wilson sometime between November 29th,
3 2011 and the day he was found, January 3rd, 2012, and
4 I'm going to ask you to return a verdict of guilty based
5 upon that evidence.

6 Thank you.

7 THE COURT: Mr. Walensky.

8 MR. WALENSKY: Thank you, your Honor.

9 Good afternoon, ladies and gentlemen.

10 The Grand Jury of the County of Kings by this
11 indictment accuses the defendant of the crime of murder
12 in the second degree committed as follows: The
13 defendant, which would be Atara Wisdom, on or about
14 November 29th, 2011, in the County of Kings, with
15 intent to cause the death of Anthony Wilson, caused
16 the death of Anthony Wilson by means of stabbing him
17 thereby inflicting various wounds and injuries upon
18 Anthony Wilson and thereafter, and on or about November
19 29th, 2011, Anthony Wilson died of the wounds and
20 injuries.

21 Ms. Chu has just made a promise to you that
22 she will prove that charge.

23 I have to use a litany here, because as the
24 Judge told you, what we say here isn't evidence. She
25 has recited what she plans to try to prove.

Opening - Defendant/Mr. Walensky

1 I submit to you that the evidence will show
2 People have a theory here, they're trying to fit it to
3 the fact that Anthony Wilson is dead.

4 Now, Anthony Wilson was not a bad man. I will
5 show that he had problems with drugs, alcohol, generally
6 pretty decent, but that when he got drunk or smoked
7 crack, and he smoked crack, that he would change, as
8 some people do, would become abusive, he would become
9 forward, he would become somewhat other than the Anthony
10 Wilson that was sober Anthony Wilson.

11 You will discover, at the time of his death
12 Mr. Wilson had an alcohol content of above .2 in his
13 system. He was intoxicated almost three times over the
14 legal limit of intoxication.

15 The evidence will also show that he had
16 residue of cocaine, that is, the byproduct of cocaine in
17 his system at the time of his death. The expert will
18 tell you that, in fact, when someone dies, your body
19 ceases metabolizing the substance. At the time of his
20 actual death that's what he had, and I submit to you,
21 the evidence will show that he did not immediately die.
22 You are going to see crime scene photos and you will
23 have to make up your mind, and what I submit to you,
24 it's not going to really show you exactly what happened,
25 it's not going to show you when he died, so that when

Opening - Defendant/Mr. Walensky

1 this assault upon Ms. Wisdom happened, he was that much
2 drunker and that much more stoned.

3 Now, Ms. Wisdom -- the evidence will show that
4 Ms. Wisdom was not his girlfriend, she would stay there,
5 she paid him money, sometimes one hundred bucks here, a
6 hundred bucks there.

7 She had recently become, quote, unquote,
8 homeless, but that she had actually had lost another
9 place recently, and she would sleep on -- you're going
10 to hear a statement it was a couch, but it was more like
11 a recliner, almost a futon that folded down.

12 She was not having sex with Anthony Wilson.
13 The evidence will show that in fact he previously had
14 tried to have sex with her but he hadn't been
15 particularly forceful, it's like get away from me or,
16 come on, knock it off, Tony, because he was known as
17 Tony and people in the neighborhood who knew Atara as
18 Renee. And he would knock it off. But this night he
19 said, I'm going to get me some pussy and he was pretty
20 drunk and he was pretty stoned, and when she wanted to
21 leave -- you will see a diagram of the apartment, if you
22 can call it that, really a room without a window in it,
23 and the entrance -- the exit was blocked. And when he
24 wrapped a belt around his hand and Atara got nervous and
25 took out a knife, not holding it in -- but the testimony

Opening - Defendant/Mr. Walensky

1 will show she had a sweater kind of like with big
2 pockets -- the name escapes me, eludes me at the present
3 time -- but she put it in the pocket of the sweater, not
4 holding it here, not hidden in the folds, and that when
5 she got up -- you're going to see a diagram, and as
6 she's walking toward her stuff, she had a duffle bag,
7 she had clothing because she was going to leave the next
8 morning for a job interview, he punched her in the head
9 and she started going down. And I submit to you, when
10 she said if I went down I was dead, it wasn't literally
11 thinking he was going to murder her, she was dead
12 because if she went on the ground he'd be able to get on
13 top of her and rape her. That is really what "I was
14 dead" means. We have to look at things within the
15 context.

16 MS. CHU: Objection, your Honor.

17 THE COURT: Sustained.

18 MR. WALENSKY: I submit to you, look at the
19 evidence, and what you're going to hear are
20 circumstances that can be looked at two or -- two or
21 three different versions of the fact.

22 Now, when this occurred, she fought Mr. Wilson
23 and you're going to see there aren't defensive wounds on
24 his hand as though she was coming at him with a knife
25 and swatting at him and there's something on his arms or

Opening - Defendant/Mr. Walensky

1 hands. What you're going to see are straight-on wounds.
2 I submit to you, the reason for this is because he was
3 on top of her, she took her knife and she started to
4 just stab him.

5 Now, the Judge at the end of the trial will
6 tell you what is justified, and I submit that when you
7 hear the charge of justification, when the Judge gives
8 that to you, you will find that you will have to acquit
9 Atara Wisdom.

10 But getting back to what had happened, there
11 are no defensive wounds. She is stabbing him, he let's
12 her go, she gets up, runs into the bathroom and locks
13 herself in.

14 The evidence will show she said that he was at
15 least partially clothed, had his pants on, but you will
16 see --

17 MS. CHU: Objection. That's not -- he is
18 making argument to the jury.

19 MR. WALENSKY: The evidence will show that he
20 was partially clothed.

21 THE COURT: It's okay.

22 MR. WALENSKY: And that when the police come
23 in, his landlord comes in and the police come in and
24 secure the scene, he is on the bed naked.

25 The evidence will show there's blood and feces

Opening - Defendant/Mr. Walensky

1 on the floor next to the bed. You will see photos of
2 this. There is blood in the bathroom in the sink,
3 there's some blood spatter. The evidence will show
4 that -- and Ms. Wilson (phonetic) left the apartment
5 saying that he was on the bed when she left.

6 I submit to you, the evidence, the physical
7 evidence you are going to see will show that Anthony
8 Wilson wasn't dead when she left that apartment. She
9 left, she scooped everything off the dresser, not just
10 his stuff, her stuff, just basically the telephones and,
11 you know, a wallet and her own stuff, just like scooping
12 something right off, everything left. And she was very
13 upset.

14 The evidence will show that in fact Tony, Mr.
15 Wilson, didn't lay on that bed and die when she left.
16 You will see from the physical evidence that there is
17 blood all around and that he took his clothing off. He
18 emptied himself, because at that point he was dying,
19 that's where the feces and the blood, I submit to you,
20 we will show, came on the floor, and he collapsed naked
21 on the bed. He was trying to help himself and reach for
22 things and then he collapsed and died.

23 The evidence is also going to show that Atara
24 was very upset. She called Matthew Shepard.

25 Now, he wasn't a close friend or a buddy.

Opening - Defendant/Mr. Walensky

1 You'll hear that they'd met perhaps twice before. And
2 when she calls, Matthew Shepard will say when she called
3 she sounded upset, wanted to see him. The evidence will
4 show that Matthew Shepard saw her and when she saw him
5 and met her in the early morning hours she told him what
6 happened, he tried to rape me, he tried to --

7 MS. CHU: Objection.

8 MR. WALENSKY: -- have sex with me.

9 MS. CHU: Objection.

10 THE COURT: Excuse me.

11 I'll overrule it.

12 MR. WALENSKY: The evidence will show, right,
13 she said I am paying him rent, he tried to have sex with
14 me, I poked him, in the shorthand kind of thing.

15 I submit to you that she ultimately makes a
16 statement saying in terms of the shorthand, the man was
17 trying to rape her.

18 THE COURT: Sustained.

19 MR. WALENSKY: And --

20 THE COURT: This is not the summation.

21 MR. WALENSKY: I understand.

22 THE COURT: This is the evidence.

23 MR. WALENSKY: This is what the evidence will
24 show, your Honor.

25 THE COURT: Show what?

Opening - Defendant/Mr. Walensky

1 MR. WALENSKY: It will show that she in fact
2 said that she -- that the decedent tried to rape her.
3 That's what she said to the police.

4 THE COURT: Go ahead.

5 MR. WALENSKY: But regarding Matthew Shepard,
6 she asked Matthew Shepard -- she told him what happened,
7 come back with me, she wanted to go back there because
8 she didn't know, but she didn't want to go back alone.
9 And he said, no, no, I'm not. With that -- and Matthew
10 Shepard's basically going to tell you he was essentially
11 seeing if he can have sex with Atara right at that point
12 and he didn't want to go back, and he left and that was
13 pretty much it.

14 So that Atara went to this, the -- her
15 friend's, she was in a bad state, she was upset, she
16 went to a friend's house, left -- was there for a while,
17 left Mr. Wilson's wallet there.

18 You'll find there is one store in the area --
19 I mean, if the benefit card is used, it could be used by
20 her, by someone else, but the evidence -- it's not just
21 the evidence -- the indictment doesn't contain any sort
22 of charge for larceny, robbery, anything like that.
23 This is -- she is just charged with one count of
24 intentionally wanting to murder Tony Wilson.

25 The evidence will show that she did not intend

Opening - Defendant/Mr. Walensky

1 to murder Anthony Wilson.

2 Ladies and gentlemen, you are going to have a
3 difficult task. Look at the evidence, look at the
4 witnesses. What the evidence will show is there are no
5 eyewitnesses to this. The evidence will show that it is
6 circumstantial evidence and the evidence will also show
7 that it is circumstance by which several different
8 theories of what happened can be applied, and at the end
9 the evidence will show that you will not have an answer
10 as to what actually happened. No amount of wishing and
11 hoping can make that. So, I ask you to take this task
12 very seriously and at the end of this endeavor come back
13 with a not guilty verdict.

14 Thank you.

15 THE COURT: Come on up, please.

16 (Whereupon, a sidebar conference was held off
17 the record.)

18 (Whereupon, subsequent trial testimony was
19 stenographically recorded and transcribed separately.)
20
21
22
23
24
25

SUPREME COURT OF THE STATE OF NEW YORK
COUNTY OF KINGS: CRIMINAL TERM: PART 2

-----X
THE PEOPLE OF THE STATE OF NEW YORK,

-against-

Indictment No.:
6615/2012
(Trial)

ATARA WISDOM,

Defendant.
-----X

Supreme Courthouse
320 Jay Street
Brooklyn, New York 11201
June 30, 2014

B E F O R E:

THE HONORABLE ALBERT TOMEI, JUSTICE
(And a Jury).

A P P E A R A N C E S:

HON. KENNETH P. THOMPSON, ESQ.
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BY: PHYLLIS CHU, ESQ.
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BY: DAVID WALENSKY, ESQ.
- and -
JOSHUA POVILL, ESQ.

MARLIN CASSIDY
Senior Court Reporter

Det. Markoski - People - Direct/Ms. Chu

1 (Whereupon, the following took place in open
2 court:)

3 THE COURT: All right, call your first witness
4 please.

5 MS. CHU: The People call Detective Stephen
6 Markoski.

7 (Whereupon, there was a brief pause in the
8 proceedings.)

9 COURT OFFICER: Witness entering.

10 (Whereupon, Detective Stephen Markoski entered
11 the courtroom and took the witness stand.)

12 THE CLERK: Raise your right hand.

13 Do you solemnly swear or affirm the testimony
14 that you're about to give will be the truth, the whole
15 truth and nothing but the truth, so help you God?

16 THE WITNESS: Yes, I do.

17 THE CLERK: Can you state your name for the
18 record?

19 THE WITNESS: Detective Stephen Markoski.

20 THE CLERK: Spell your first and last name.

21 THE WITNESS: S-T-E-P-H-E-N, M-A-R-K-O-S-K-I.

22 THE CLERK: Give your shield number.

23 THE WITNESS: 66842.

24 THE CLERK: And your command?

25 THE WITNESS: Crime Scene Unit, New York City

Det. Markoski - People - Direct/Ms. Chu

1 Police Department.

2 THE CLERK: Thank you.

3 THE COURT: You may have a seat.

4 Pull your chair up to the microphone. Place
5 your lips close to the microphone when responding to any
6 question.

7 Proceed.

8 MS. CHU: Thank you.

9 S T E P H E N M A R K O S K I, Detective, Shield No.
10 66842, Crime Scene Unit, New York City Police
11 Department, called as a witness by and on behalf of
12 the People of the State of New York, after having
13 been first duly sworn, was examined and testified
14 as follows:

15 DIRECT EXAMINATION

16 BY MS. CHU:

17 Q Good afternoon, Detective.

18 A Good afternoon.

19 Q How long have you been with the New York City
20 Police Department?

21 A Twenty-two years.

22 Q You said you're currently assigned to the Crime
23 Scene Unit. Can you tell me how long you have been with
24 them?

25 A I have been with the Crime Scene Unit for six

Det. Markoski - People - Direct/Ms. Chu

1 years.

2 Q Can you tell us about your career with the N.Y.P.D.
3 starting from when you got out of the Academy?

4 A After the Academy I was assigned to the 84th
5 Precinct in downtown Brooklyn for twelve years. After that I
6 went to Brooklyn North Evidence Collection for four years and
7 the last six years with Crime Scene Unit.

8 Q Did you receive special training to become a member
9 of the Evidence Collection Team as well as the Crime Scene
10 Unit?

11 A Most of the training that I received was on-the-job
12 training, such as photography, fingerprints, DNA extraction,
13 sketching.

14 Q Now, what does the Crime Scene Unit do? What are
15 your duties and responsibilities as a member of that unit?

16 A The Crime Scene Unit's responsibility is to assist
17 the precinct detective squads in gathering evidence to assist
18 them in their investigations.

19 Q What type of crimes are you responsible to respond
20 to as a member of the Crime Scene Unit?

21 A Any major crime in the City of New York, such as
22 homicides, police involved shootings, rapes, sexual crimes.

23 Q Now I want to direct your attention to January 3rd,
24 2012. Were you working as a crime scene detective on that
25 date?

Det. Markoski - People - Direct/Ms. Chu

1 A Yes, I was.

2 Q Can you tell the members of the jury what your
3 hours were?

4 A That day I believe I was working 7:00 in the
5 morning till 3:00 in the afternoon.

6 Q Were you assigned to a partner?

7 A Yes, I was.

8 Q Who was that?

9 A Detective Streichert.

10 Q Now, on that date did you respond to 832 Bushwick
11 Avenue here in Brooklyn?

12 A I did.

13 Q Can you tell me approximately what time you
14 arrived?

15 THE WITNESS: Do you mind if I look at my
16 notes, Judge?

17 THE COURT: No, go ahead.

18 A We arrived at 2:42 in the afternoon.

19 Q Okay.

20 When you arrived, were there other police personnel
21 present?

22 THE COURT: What date was this, January what?

23 MS. CHU: January 3rd.

24 THE COURT: What time did you arrive?

25 THE WITNESS: 2:42 P.M.

Det. Markoski - People - Direct/Ms. Chu

1 Q Now, when were you notified about this case?

2 A Two o'clock P.M.

3 Q Okay.

4 And were police personnel present when you arrived?

5 A Yes.

6 Q And can you tell me, was a crime scene established?

7 A It was.

8 Q What does that mean, to have a crime scene
9 established?

10 A Crime scene established means you place -- the
11 location where the crime occurred was roped off with crime
12 scene tape and there was patrol there safeguarding the crime
13 scene to prevent anybody from entering.

14 Q Okay.

15 Can you tell me, once you arrived, what did you
16 do?

17 A First thing I did was I conferred with the precinct
18 detective, Hernandez, from the 83rd Precinct, find out the
19 information that he knew at that time and conferred with him
20 as to what kind of evidence he had and what he wanted
21 processed.

22 Q Okay.

23 Did you then do something called a walkthrough?

24 A I did.

25 Q What is that?

Det. Markoski - People - Direct/Ms. Chu

1 A Basically, it's to walk through the scene with the
2 detective, have him pointing out things that he's found out
3 about the investigation up until that point, and like I said,
4 he will dictate to me what he wants processed as far as the
5 crime scene.

6 Q Can you tell me, how did the scene appear when you
7 arrived?

8 A The scene was in disarray. It was a cold apartment
9 and it was bloody, and there was a deceased gentleman on a
10 bed.

11 Q Can you tell me, what was the condition of the --
12 I'm sorry, withdrawn.

13 Did you take photographs of the scene?

14 A I did.

15 Q Did you also take measurements?

16 A I did.

17 Q What is the purpose for measurements?

18 A The measurement is just to give an idea of how big
19 the crime scene was, the apartment.

20 Q Did you do a sketch of the actual crime scene?

21 A Yes, I did.

22 Q For what purpose is that?

23 A It's to give a layout, a general layout for court
24 purposes, to show what the crime scene looked like as far as
25 an overhead view.

Det. Markoski - People - Direct/Ms. Chu

1 Q You said you also took photos of the scene. Did
2 you take photos of the actual victim?

3 A I did.

4 Q Did you have occasion to examine the body of the
5 victim with the medical-legal investigator?

6 A Yes, I did.

7 Q What was the state of the body?

8 A The body was in a state of advanced decomposition,
9 the skin was peeling off, there were maggots throughout most
10 of the body.

11 Q Now, can you tell me, could you see any obvious
12 injuries on the victim's body when you were there?

13 A I was with the medical examiner and he's trained in
14 that type of thing more than I am, I'm led by his lead, and
15 we saw some injuries, but because of the advanced state of
16 the decomposition he could not make any determination what
17 injuries were at that time.

18 Q Okay.

19 Now, was there any sign of forced entry into the
20 apartment itself?

21 A Not that I saw.

22 Q What kind of apartment was this?

23 A It was a ground floor apartment, extremely small.
24 Basically, I guess you would call it a studio.

25 Q Okay.

Det. Markoski - People - Direct/Ms. Chu

1 There was a place to sleep, a bathroom and a
2 kitchen?

3 A That's about it, yeah.

4 Q Okay.

5 Now, what type of evidence did you begin to collect
6 from the scene?

7 A Well, when we first arrived, we weren't sure if a
8 crime had occurred. The evidence that we took was just stuff
9 that would be sent to the Property Clerk for possibly future
10 recall. So, it was basically some clothing, some soiled
11 clothing, and what appeared to be possible traces of blood at
12 various points of the apartment.

13 Q Did you take what are known as DNA samples from the
14 areas where you saw blood in the apartment?

15 A Yes.

16 Q Can you tell me, did you -- I'm sorry, withdrawn.

17 MS. CHU: At this time, your Honor, if I can
18 have this deemed marked People's Number 1 for
19 identification.

20 (Whereupon, the exhibit was shown to counsel.)

21 (Whereupon, the exhibit was shown to the
22 witness.)

23 Q Detective Markoski, do you see what is being shown
24 to you as People's 1 for identification?

25 A Yes, I do.

Det. Markoski - People - Direct/Ms. Chu

1 Q What do you recognize -- I'm sorry.

2 Do you recognize what is deemed marked People's 1
3 for identification?

4 A Yes.

5 Q What do you recognize that to be?

6 A That is a sketch I prepared on January 3rd, 2012,
7 of the -- an overhead view of the crime scene at 832
8 Bushwick.

9 Q Is this diagram to scale?

10 A No, it's not.

11 Q What does that mean, that it's not to scale?

12 A It means that the -- obviously this picture right
13 here is not the identical size of the apartment, it's just to
14 give an illustration about what it looked like.

15 Q Where things are in relation to others?

16 A Exactly.

17 Q Did you make any markings on this with regards to
18 the evidence that you recovered in this case?

19 A Yes, I did.

20 MS. CHU: Now, at this time I'd like to offer
21 into evidence as -- I'm sorry.

22 Q Is this diagram a fair and accurate depiction of
23 the scene and the evidence that you recovered as you
24 processed it on January 3rd, 2012?

25 A Yes, it is.

Det. Markoski - People - Direct/Ms. Chu

1 MS. CHU: At this time, your Honor, I would
2 offer it into evidence as People's 1.

3 THE COURT: Any objection?

4 MR. WALENSKY: No.

5 THE COURT: In evidence.

6 (Whereupon, the diagram was marked as People's
7 Exhibit 1 in evidence.)

8 Q Now, Detective, how many things did you recover
9 from this apartment?

10 A I recovered eleven pieces of evidence.

11 Q Okay.

12 Can you tell us what they were?

13 A Yes.

14 THE WITNESS: May I refer to my notes again,
15 Judge?

16 THE COURT: Go ahead.

17 What are you referring to?

18 THE WITNESS: Excuse me?

19 THE COURT: What are you referring to?

20 THE WITNESS: These are my scene photos that I
21 took on the day of the crime.

22 THE COURT: Okay, go ahead.

23 A Okay. The first piece of evidence I recovered was
24 a black sock with possible bloodstains.

25 THE COURT: A black sock?

Det. Markoski - People - Direct/Ms. Chu

1 THE WITNESS: Yes, sir.

2 THE COURT: Okay.

3 A The second piece of evidence was a pair of blue
4 jeans with a black belt.

5 THE COURT: Go ahead.

6 A Third piece was a brown long-sleeved shirt with
7 possible bloodstains.

8 THE COURT: Brown long-sleeved shirt?

9 THE WITNESS: Yeah.

10 A The jeans also had possible bloodstains, I'm sorry.
11 Fourth piece was a white towel with possible
12 bloodstains.

13 THE COURT: Go ahead.

14 A Number five and six were prescription pill bottles.

15 THE COURT: Prescription...

16 THE WITNESS: From the drugstore, the pill
17 bottles, the brown ones.

18 THE COURT: Oh, pill bottles.

19 THE WITNESS: Yeah.

20 A Number seven was a washcloth with possible
21 bloodstains.

22 And numbers eight through eleven were swabs of
23 possible blood.

24 Q Where were those swabs taken from?

25 A Number eight was taken from a nightstand on the

Det. Markoski - People - Direct/Ms. Chu

1 west side of the bed.

2 Number nine was taken from a kitchen cabinet.

3 Number ten was taken inside the tub in the
4 bathroom.

5 And number eleven was taken from the eastern
6 bathroom wall.

7 Q Now, did you indicate -- I'm sorry.

8 Did you label any of these items with any specific
9 label?

10 A Yes, each item was labeled one through eleven, with
11 my initials in front of each number.

12 Q So your initials are what?

13 A S-M.

14 Q Each of those pieces of items of evidence that you
15 just mentioned were SM1, SM2?

16 A Through eleven, yes.

17 Q Now, can you tell me, on the diagram that you
18 looked at, People's 1 in evidence, does it depict the areas
19 where you recovered each of those pieces of evidence, SM1
20 through 11?

21 A Yes, it does.

22 MS. CHU: At this time, your Honor, if I can
23 just have it posted.

24 THE COURT: Post it.

25 (Whereupon, the exhibit was posted.)

Det. Markoski - People - Direct/Ms. Chu

1 THE COURT: Put it up higher.

2 Q Detective, --

3 MS. CHU: Your Honor, may the witness step
4 down?

5 THE COURT: You may step down.

6 Q Walk us through, Detective, if you may.

7 THE COURT: Go to the area where the Officer
8 is, okay. Proceed.

9 (Whereupon, the witness stepped down from the
10 witness stand and approached the exhibit.)

11 Q Just walk us through this scene that you have the
12 diagram for.

13 A Sure. This is the front door (indicating), the
14 front entrance door, the only door in the whole apartment
15 entering and exiting.

16 This is where the body was (indicating).

17 THE COURT: Just move back a little.

18 Go ahead.

19 Q Go ahead.

20 A This is where the victim's body was, it's on top of
21 the bed here (indicating).

22 This is the living area, right here (indicating),
23 basically this whole area, with the kitchen located right
24 here (indicating). And then through this doorway here
25 (indicating) is the bathroom.

Det. Markoski - People - Direct/Ms. Chu

1 Over here is the legend which tells you SM Number 1
2 was the sock, each piece of evidence, number 2 right here
3 (indicating) is the blue jeans, number 3 is the brown shirt,
4 number 4, is the towel. Number 4 is here (indicating).

5 Number 5 and 6 are under the bed, the pill bottles.

6 Number 7 is the washcloth, which we found right
7 here (indicating) in the bathroom sink.

8 And numbers 8 through 11 were swabs of possible
9 blood, which were -- let's see, number 8 is here (indicating)
10 on the end table, number 9 is the kitchen cabinet, number
11 10 is in the tub, and number 11 is on the wall of the
12 bathroom.

13 Q Now, as a detective from Crime Scene would you be
14 able to determine when that blood got on these articles that
15 you took swabs from?

16 A No.

17 Q Now you can have seat.

18 (Whereupon, the witness resumed the witness
19 stand.)

20 Q What did you do with the actual pieces of
21 evidence?

22 A I packaged -- well, I initially photographed
23 them, I measured them, as to where they were recovered, I
24 then packaged them and then I hand delivered them to a
25 police officer from the 83rd Precinct, Police Officer

Det. Markoski - People - Direct/Ms. Chu

1 Ortiz -- I'm sorry, Police Officer Carlin -- for vouchering
2 purposes.

3 THE COURT: Police officer who?

4 THE WITNESS: Carlin.

5 MS. CHU: Christian Carlin.

6 THE COURT: Okay.

7 Q Now, did you --

8 How did you package each of the items?

9 A Each of the items of clothing, any type of clothing
10 has to be packaged in paper, and the swabs are packaged in, I
11 guess we can say it's like a tube, it's a secure tube that is
12 taped up so it can be sent for DNA testing.

13 Q Is that like a plastic tube?

14 A Plastic, yeah.

15 Q Now, did you process the scene at all for latent
16 prints?

17 A No.

18 Q Now, I want to show --

19 You said you had taken photos of the scene?

20 A Yes.

21 MS. CHU: Your Honor, I have People's -- I'd
22 like these deemed People's 1 through 41.

23 THE CLERK: Two.

24 MS. CHU: Two through 41 for identification.

25 THE COURT: Two to 41?

Det. Markoski - People - Direct/Ms. Chu

1 MS. CHU: Yes.

2 MR. WALENSKY: I have no objection, your
3 Honor, to them being entered into evidence.

4 THE COURT: All right. You are offering them
5 into evidence?

6 MS. CHU: Yes.

7 THE COURT: They're in evidence.

8 (Whereupon, the photographs were marked as
9 People's Exhibits 2 through 41 in evidence.)

10 MR. WALENSKY: Your Honor, if I can have --

11 THE COURT: Bring down the screen.

12 (Whereupon, an exhibit was displayed.)

13 Q Detective, can you just tell us, looking at
14 People's 2 in evidence, what is this a photograph of?

15 A That's a photograph of the Crime Scene Unit
16 envelope, that is the cover sheet.

17 Q Okay.

18 And did you prepare this?

19 A I did.

20 Q Is this your handwriting?

21 A It is.

22 Q Thank you.

23 (Whereupon, the exhibit was displayed.)

24 Q People's 3 in evidence, what are we looking at
25 here?

Det. Markoski - People - Direct/Ms. Chu

1 A That's the entrance door to the apartment.

2 Q Okay.

3 Looking at People's 4 in evidence.

4 (Whereupon, the exhibit was displayed.)

5 Q What is this?

6 A It's the same apartment door, just a closer view
7 into the kitchen.

8 Q Where would the kitchen be, if you were looking at
9 this photograph?

10 A Straight ahead.

11 Q Straight ahead?

12 A Uh-huh.

13 Q Take a look at People's 5 in evidence.

14 (Whereupon, the exhibit was displayed.)

15 A That's from the doorway towards the kitchen.

16 Q Can you tell me, I see there's some things on the
17 floor. What was that?

18 A It appeared to be blood and it appeared to be human
19 feces on the floor, also looked like someone tried to wipe it
20 with some sort of piece of cloth of some sort.

21 Q People's Number 6.

22 (Whereupon, the exhibit was displayed.)

23 Q What is this a picture of?

24 A That's from the kitchen into the living area. I'm
25 sorry. That is from the living area into the kitchen. I'm

Det. Markoski - People - Direct/Ms. Chu

1 sorry.

2 Q So where would the front door be in this
3 photograph?

4 A To the right of the photo.

5 Q So this door right here (indicating) is the front
6 door?

7 A Yes, it is.

8 Q Taking a look at People's 7 in evidence.

9 (Whereupon, the exhibit was displayed.)

10 Q What is this a picture of?

11 A That's just an opposite view of the previous photo.
12 It shows the victim laying on the bed.

13 Q Do you see the entrance door to this apartment in
14 the photograph?

15 A I think you can see a little bit of it on the
16 bottom left.

17 Q This is it here (indicating)?

18 A Yes.

19 Q If you could, which way would you turn to get this
20 view if you're --

21 A If you walk into the apartment, you'd have to look
22 to your left.

23 THE COURT: He's facedown or face up in that
24 picture?

25 THE WITNESS: I believe he's face up.

Det. Markoski - People - Direct/Ms. Chu

1 Q Okay.

2 That was People's 7, right.

3 Taking a look at People's 8 in evidence.

4 (Whereupon, the exhibit was displayed.)

5 Q What is this a picture of?

6 A That's the floor of the living area between the
7 kitchen and the living area, I should say, and on the left
8 side is the blue jeans that I vouchered.

9 Q Okay.

10 You had mentioned there was feces that was smeared
11 on the floor. Do you see that in this picture?

12 A Yes, it's more toward the end of the photo.

13 Q Right next to this shirt here (indicating)?

14 A Yes.

15 Q Or this article of clothing?

16 A Yes.

17 Q Now, would the kitchen be --

18 Do you see the cabinets of the kitchen in that
19 photograph?

20 A I believe they are to the top, top right.

21 Q So this right here (indicating)?

22 A Yes.

23 Q That would be where the kitchen cabinets are?

24 A Yes.

25 Q Thank you.

Det. Markoski - People - Direct/Ms. Chu

1 Taking a look at People's 9 in evidence.

2 (Whereupon, the exhibit was displayed.)

3 Q What is this a picture of?

4 A That is a photo of the victim laying on the bed in
5 a northbound photo. The kitchen would be on the left-hand
6 side and the front door on the left top portion.

7 THE COURT: He is facedown, isn't he?

8 THE WITNESS: I believe that's face up. He
9 was badly decomposed.

10 Q Okay.

11 Taking a look at People's 10 in evidence.

12 (Whereupon, the exhibit was displayed.)

13 A That's another view of the victim from the left
14 side of the bed. That's kind of from the doorway area
15 towards the victim.

16 Q Okay.

17 At this point, had you touched the victim at all?

18 A Not yet, no.

19 Q Taking a look at People's 11 in evidence, can you
20 tell me, what is this a picture of?

21 A It's a close-up photo of his chest. The right-hand
22 portion of the picture would be his neck.

23 Q You were unable to make a determination based upon
24 the decomposition as to whether or not he had any injuries or
25 fresh injuries?

Det. Markoski - People - Direct/Ms. Chu

1 A It's usually the medical examiner's call but we
2 didn't make a determination at that time, no.

3 Q Okay.

4 Taking a look at People's 12 in evidence.

5 (Whereupon, the exhibit was displayed.)

6 A That is a photo of the bathroom from the living
7 area.

8 Q Okay.

9 Where would the bed be if I were standing here
10 taking this picture?

11 A It would be to your right.

12 Q To the right of me?

13 A Yes.

14 Q Taking a look at People's 13 in evidence.

15 (Whereupon, the exhibit was displayed.)

16 A Just an opposite view of the previous photograph.
17 It's the bathroom looking out into the living area.

18 Q And this item right here, can you see
19 (indicating)?

20 A No, not really.

21 MS. CHU: That doesn't make it any better,
22 okay.

23 Q Taking a look at People's 14 in evidence, what is
24 this a picture of?

25 A That's the bathroom floor.

Det. Markoski - People - Direct/Ms. Chu

1 Q And this area to the right top of the photograph,
2 what is that (indicating)?

3 A That would be the tub.

4 Q The tub?

5 A Yeah.

6 Q Where would the toilet be in relation to the tub?

7 A Same side as the tub, just a little bit down in the
8 photograph.

9 Q So off the picture?

10 A Right.

11 Q So on like the -- right on the bottom left?

12 A Correct.

13 Q Taking a look at People's 15 in evidence, what is
14 this a picture of?

15 (Whereupon, the exhibit was displayed.)

16 A That's a photo of the sink with the washcloth in
17 the basin.

18 Q Okay.

19 Taking a look at People's 16 in evidence.

20 (Whereupon, the exhibit was displayed.)

21 A That's a view of the bathroom wall with the
22 possible bloodstains.

23 Q If you can just -- there's --

24 There should be a remote control right in front.

25 If you push the red button, you will see it's a laser

Det. Markoski - People - Direct/Ms. Chu

1 pointer.

2 A Right here (indicating).

3 THE COURT: Possible what stains?

4 THE WITNESS: Blood.

5 Q So they were on the wall? There are speckles on
6 the tile?

7 A Yes.

8 Q Okay.

9 Taking a look at People's 17 in evidence.

10 (Whereupon, the exhibit was displayed.)

11 A That's also some possible bloodstains that were
12 located on the bathroom wall.

13 Q Where --

14 Which wall would this be closest to in the
15 bathroom?

16 A That would be the wall closest to the toilet.
17 That's the toilet on the bottom of the photo. It would be
18 the right-hand side of the toilet. If you were sitting on
19 the toilet, it would be the right-hand side right wall.

20 Q So if you're sitting on the toilet, this bloodstain
21 (indicating) would be on your right-hand side?

22 A Correct.

23 Q Okay.

24 Taking a look at People's 18.

25 (Whereupon, the exhibit was displayed.)

Det. Markoski - People - Direct/Ms. Chu

1 A That would be possible bloodstains on the wall from
2 the bathroom near the doorway.

3 Q So that would be on the left side of the toilet, if
4 you're sitting down?

5 A That -- yes, I believe so.

6 Q So that's -- I'm sorry.

7 This right here (indicating) on the photograph, is
8 that the tub?

9 A Yes, it is. It's hard to see.

10 That is the tub and that is the left side of the
11 toilet wall, yes.

12 Q Taking a look at People's 18 in evidence.

13 (Whereupon, the exhibit was displayed.)

14 THE COURT: I thought you did 18.

15 MR. WALENSKY: That was 18. This is 19.

16 MS. CHU: Nineteen, I'm sorry.

17 Q What is this a picture of?

18 A That's a photograph of the end table to, I guess
19 you'd say, the left side of the bed. If you were looking
20 from the bottom of the bed, that would be to the left
21 side.

22 THE COURT: What are those stains?

23 THE WITNESS: We took a swab thinking it might
24 possibly be some bloodstains. It also appears it's like
25 fecal matter as well.

Det. Markoski - People - Direct/Ms. Chu

1 Q This is where you had taken one of the samples from
2 blood that you had mentioned earlier?

3 A Yes.

4 Q Taking a look at People's 20 in evidence.

5 (Whereupon, the exhibit was displayed.)

6 A Those markers indicate the pieces of evidence which
7 were recovered, if you're looking at the bed from the bottom,
8 the left side, and the same evidence which I previously
9 mentioned on the sketch.

10 Q Who put those markers there?

11 A I did.

12 Q Did those correspond with the items of evidence
13 that you had recovered and processed?

14 A Yes, they do.

15 Q Can you walk us through? It's 1 through 6, right?

16 A Yes.

17 THE WITNESS: Judge, I am going to refer to my
18 notes again.

19 THE COURT: Go ahead.

20 A Number 1 is the sock.

21 Number 2 is the blue jeans.

22 THE COURT: Hold on.

23 A Sorry.

24 THE COURT: Go ahead.

25 A Number 3 is the shirt.

Det. Markoski - People - Direct/Ms. Chu

1 THE COURT: Brown shirt?

2 THE WITNESS: Yes.

3 A Number 4 is the white towel.

4 Numbers 5 and 6 are the pill bottles.

5 Q Okay.

6 Looking at People's 21 in evidence, what is this?

7 (Whereupon, the exhibit was displayed.)

8 A Number 5 and 6 are depicting the pill bottles which
9 are located underneath the bed.

10 Q And these smears that are on the floor, is that the
11 fecal matter and blood that you had referred to earlier?

12 A It appeared to be a mixture, yes.

13 Q Taking a look at People's 22.

14 (Whereupon, the exhibit was displayed.)

15 Q What is this?

16 A It's a close-up view of number 1, which was the
17 sock.

18 Q Okay.

19 Taking a look at People's Number 23.

20 (Whereupon, the exhibit was displayed.)

21 A That is a close-up -- excuse me -- close-up view of
22 the jeans.

23 Q Now, were you able to determine what size the jeans
24 were?

25 A I think so.

Det. Markoski - People - Direct/Ms. Chu

1 They were size 36, 32. Thirty-six waist, 32
2 length.

3 Q Taking a look at People's 24.

4 (Whereupon, the exhibit was displayed.)

5 A It is a close-up view of the brown shirt.

6 Q And that was what you had labeled SM3?

7 A Yes.

8 Q Taking a look at People's 25.

9 (Whereupon, the exhibit was displayed.)

10 A That's a close-up view of number 4, which is the
11 towel, SM4.

12 Q Okay.

13 Taking a look at People's 26.

14 (Whereupon, the exhibit was displayed.)

15 A That's a close-up view of the washcloth in the
16 basin, which was SM7.

17 Q Taking a look at People's Number 27.

18 (Whereupon, the exhibit was displayed.)

19 A That's the same photo as the previous photograph
20 with a crime scene scale.

21 Q What do you mean, a crime scene scale?

22 A It's six inches long and gives a general idea how
23 long a piece of evidence was.

24 Q So you can get perspective?

25 A Yes.

Det. Markoski - People - Direct/Ms. Chu

1 Q People's 28 in evidence.

2 (Whereupon, the exhibit was displayed.)

3 A That's the two pill bottles that were recovered
4 from under the bed, close-up view, with the scales.

5 Q Okay.

6 People's 29.

7 (Whereupon, the exhibit was displayed.)

8 A That's number 5, close-up view of SM5 with a
9 scale.

10 Q Okay.

11 Number 6 -- I'm sorry.

12 Number 30, I'm sorry.

13 (Whereupon, the exhibit was displayed.)

14 A Close-up view of number 6 with a scale.

15 Q Taking a look at People's 31.

16 A That's the end table next to the bed where I
17 recovered the swab. The scale indicates the area where I
18 took the swab from.

19 Q This blue marker right here (indicating)?

20 A Yes.

21 Q Okay.

22 People's 32.

23 (Whereupon, the exhibit was displayed.)

24 A That's just a close-up view of the previous
25 photograph.

Det. Markoski - People - Direct/Ms. Chu

1 Q Okay.

2 People's 33 in evidence, what is this?

3 (Whereupon, the exhibit was displayed.)

4 A That is a view of the kitchen cabinets with the
5 possible bloodstains on them.

6 Q This would be in the kitchen area of the
7 apartment?

8 A Yes.

9 Q Okay.

10 Now, can you tell me, what is People's 34?

11 (Whereupon, the exhibit was displayed.)

12 A That's the same photo as the previous photo. The
13 scale is depicting the area where I recovered the blood swab,
14 the possible blood swab.

15 Q Okay.

16 People's 35.

17 (Whereupon, the exhibit was displayed.)

18 A Just a closer view of the previous photograph,
19 SM9.

20 Q Do you know what this is on the left-hand side
21 (indicating)?

22 A At first we didn't but then I think we thought it
23 might be just someone had thrown food around the apartment.
24 It appeared to be some sort of tomato sauce or something like
25 that.

Det. Markoski - People - Direct/Ms. Chu

1 Q Okay. That was 35. Now we are on to 36.

2 (Whereupon, the exhibit was displayed.)

3 A That's the bathroom wall with the possible
4 bloodstains.

5 Q Exhibit 37.

6 (Whereupon, the exhibit was displayed.)

7 A That's also a bathroom wall with the possible
8 bloodstains.

9 Q People's 38.

10 (Whereupon, the exhibit was displayed.)

11 A That's the bathroom wall with the possible
12 bloodstains. The scale is depicting the area where the swab
13 was recovered.

14 Q So that's the actual sample that you took it from?

15 A Yes.

16 (Whereupon, the exhibit was displayed.)

17 Q Taking a look at People's 39.

18 A That's a view of the tub.

19 Q Okay.

20 Taking a look at 40.

21 (Whereupon, the exhibit was displayed.)

22 A That's a view of the tub with the scale indicating
23 the area where the swab was recovered.

24 Q Okay.

25 And People's 41.

Det. Markoski - People - Direct/Ms. Chu

1 (Whereupon, the exhibit was displayed.)

2 A Close-up view of the previous photograph, SM Number
3 10.

4 Q Okay.

5 Thank you very much, Detective.

6 MS. CHU: If I can have one moment, your
7 Honor.

8 (Whereupon, there was a brief pause in the
9 proceedings.)

10 Q How long were you at the scene?

11 A I was at the scene for about five-and-a-half hours.

12 Q And you said that the apartment was cold when you
13 got there. What did you mean by that?

14 A Well, it was -- it was January and it didn't appear
15 that there was any heat in the apartment and I think the
16 temperature that we took when we were there was 28 degrees.
17 The medical examiner took that temperature while we were
18 examining the body.

19 Q The room temperature was 28 degrees?

20 A Yes.

21 MS. CHU: Thank you very much.

22 I have nothing further.

23 THE COURT: Cross.

24 CROSS-EXAMINATION

25 BY MR. WALENSKY:

Det. Markoski - People - Cross/Mr. Walensky

1 Q Detective, did anybody move the body while you were
2 there to take photos?

3 A Yes.

4 Q Did you move it or did another officer?

5 A My partner and the medical examiner moved it while
6 I took the photographs.

7 Q And the body actually was not north -- not north to
8 south on the bed, wasn't it on an angle or sideways?

9 A No, the body was in a north to south direction as
10 you can see on the sketch here.

11 Q Is that how the body was when you came in? That's
12 what I mean.

13 A Yes.

14 Q Prior to moving?

15 A Yes.

16 Q You weren't a witness to this crime, were you?

17 A No, sir.

18 Q Did you take a swab of the blood spattering on the
19 doorway of the bathroom? There was some on the wall and then
20 some on the doorframe.

21 A The only swabs I took are the ones I testified to.

22 MR. WALENSKY: Where are the pictures? Can I
23 have the photos? Can I have 18, 16, 17 and 18?

24 (Whereupon, the exhibits were handed to
25 counsel.)

Det. Markoski - People - Cross/Mr. Walensky

1 THE COURT: Lights.

2 (Whereupon, the exhibit was displayed.)

3 Q Did you take a swab from this area (indicating),
4 either the doorframe --

5 THE COURT: It's not a doorframe. It's -- I
6 don't know if -- what is your view of this?

7 THE WITNESS: To be honest with you, I am kind
8 of having trouble recognizing that photograph.

9 Q I'd like you to take a look at the photograph
10 directly, then. I think it actually shows it better.

11 MS. CHU: What number was that?

12 MR. WALENSKY: This is, I believe, photo 18.

13 (Whereupon, the exhibit was handed to the
14 witness.)

15 MS. CHU: I have the photograph number written
16 small along the edge.

17 THE WITNESS: Okay.

18 Q That is from the inside of the bathroom?

19 A Yes.

20 Okay, that picture is depicting the possible
21 bloodstains, they are to the left side of the wall -- I'm
22 sorry -- left side of the toilet along the wall.

23 Q That is the one you took bloodstains from, you took
24 swabs?

25 A I took actually from the opposite side.

Det. Markoski - People - Cross/Mr. Walensky

1 Q You didn't take any swab from --

2 A From the left side of the toilet?

3 Q Yeah.

4 A No, I took it from the right side of the toilet.

5 Q Can you show that photo to the jury over there?

6 THE COURT: Is that the right side?

7 THE WITNESS: There was bloodstains on both
8 sides of the toilet.

9 THE COURT: Is this photo of the right side of
10 the toilet?

11 THE WITNESS: No, sir, that's the left.

12 THE COURT: Possible bloodstains from the left
13 side of the toilet?

14 THE WITNESS: Yes, sir.

15 THE COURT: Wall, right?

16 THE WITNESS: Yes.

17 Q Is the bathtub in here?

18 A Yes.

19 Q And the toilet is here (indicating)?

20 (Whereupon, the exhibit was displayed.)

21 A That is a bucket.

22 Q You can't see it?

23 A Yes.

24 Q There were no --

25 There is no swab there?

Det. Markoski - People - Cross/Mr. Walensky

1 No swabs were taken from these stains here
2 (indicating), where my thumb is?

3 A No, I took it from the other side of the toilet.

4 THE COURT: I don't understand.

5 Those little specks there?

6 THE WITNESS: Yes.

7 THE COURT: Are those possible bloodstains?

8 THE WITNESS: Possible, yes.

9 THE COURT: You took the photo of this? You
10 took the photo of them?

11 THE WITNESS: Yes.

12 THE COURT: Were any possible bloodstains on
13 the wooden frame?

14 THE WITNESS: On the wooden frame,
15 possibility, yes.

16 THE COURT: Did you swab it?

17 THE WITNESS: No, sir. I swabbed the other
18 side of the toilet.

19 THE COURT: Okay.

20 (Whereupon, the exhibit was displayed.)

21 Q I'm pointing down here (indicating). This is the
22 other side of the toilet, right, the right side? You took
23 your swab from that side (indicating)?

24 A Yes.

25 Q You didn't take it from what would be this side

Det. Markoski - People - Cross/Mr. Walensky

1 (indicating). I just want to get it clear.

2 All right, thank you.

3 And after you --

4 When was the last time prior to coming in today,
5 last time you reviewed this file?

6 A I had a preparation with the District Attorney a
7 couple of months ago.

8 Q So you came in today and looked at your notes and
9 testified, right?

10 A Yes, sir.

11 Q And, really, your job is really collecting evidence
12 and photographing or trying to preserve a scene?

13 A Correct.

14 MR. WALENSKY: Thank you.

15 I have no further questions.

16 THE COURT: You may step down. Thank you very
17 much.

18 THE WITNESS: Thank you.

19 (Whereupon, Detective Markoski stepped down
20 from the witness stand and exited the courtroom.)

21 THE COURT: Come on up.

22 (Whereupon, a sidebar conference was held off
23 the record.)

24 THE COURT: Ladies and gentlemen, at this time
25 we are going to adjourn for the evening.

Proceeding

1 Do not discuss the case amongst yourselves or
2 with anyone else. Do not visit the place where the
3 alleged crimes occurred. Have no contact with any of
4 the parties involved in this matter, including the
5 Court.

6 Again, do not resort to utilizing any digital
7 or electronic device for the purpose of obtaining any
8 information or contacting anyone about this case. That
9 proscription against the use of your digital, electronic
10 devices is based on the fact that the courtroom is the
11 place to determine the truth of what occurred, in other
12 words, and you do that or that's done in this setting
13 because the attorneys have the opportunity to examine
14 and question the witnesses. If you go outside of the
15 courtroom to seek information about this matter, you
16 will not have that examination, you will not have that
17 ability to hear anything about the retrieval of that
18 evidence or the value of that evidence, et cetera.

19 This is the testing ground, the courtroom,
20 nowhere else, so that's why you're told not to use any
21 outside sources.

22 All right.

23 So, we are going to adjourn till tomorrow ten
24 o'clock. And again, have a very good evening. See you
25 tomorrow at 10:00.

Proceeding

1 SERGEANT: Ladies and gentlemen, just leave
2 your booklets on the seat and the pens.

3 THE COURT: You have to be here at ten
4 o'clock.

5 What is the problem you have? You had your
6 hand up?

7 JUROR: How long do I advise my job I will be
8 away from work?

9 THE COURT: I just said that we are not going
10 to be meeting on Thursday and Friday and we'll be back
11 on Tuesday of next week, okay.

12 SERGEANT: Just put your juror number on the
13 booklet.

14 (Whereupon, the Jury exited the courtroom.)

15 THE COURT: Mr. Walensky, what do you have?

16 MR. WALENSKY: Yes, your Honor.

17 In my opening I made reference of the fact
18 that Ms. Wisdom wasn't charged with any larcenies, any
19 robberies. The Court -- it appeared the People had not
20 made a Molineux application.

21 THE COURT: That's true.

22 MR. WALENSKY: And the Court had indicated
23 that, sua sponte, they were going to give --

24 THE COURT: I am -- not sua sponte. The truth
25 of the matter is, you know, I'm not sure I should give a

Proceeding

1 Molineux.

2 MR. WALENSKY: That was my --

3 THE COURT: A Molineux ruling.

4 MR. WALENSKY: I think it would be error
5 because it's not for the Court to try the People's case,
6 of course, and --

7 THE COURT: I am not trying the People's case.
8 All I'm saying is that it wasn't made, the Molineux
9 application wasn't made, and I don't believe the
10 reference to -- well, there's some question now as to
11 the reference to the wallet being taken and benefits,
12 Welfare benefits being utilized by the defendant; isn't
13 that true?

14 MS. CHU: No, there is no allegation as to
15 that. What happens, she in her own statement says, I
16 take his Welfare card. She admits that in her statement
17 to the police officers, that she took the card but she
18 denies using it. So what I was planning on doing was
19 submitting the EBT records for Mr. Wilson's card to show
20 that after the date of November 29th, 2011 her phone
21 use, her phone numbers and EBT where she frequented was
22 being used.

23 THE COURT: Frequented? She goes to Welfare?

24 MS. CHU: To different places to use her EBT
25 card than the victim would go. So the victim --

Proceeding

1 THE COURT: But the EBT card was used post?

2 MS. CHU: I am not making an allegation that
3 she was the one that did it. After he died, that EBT
4 card was not used at his usual locations, it was now
5 being used in areas where she used to frequent.

6 MR. WALENSKY: It's prejudicial. It's the
7 only stores in the neighborhood. She said she went to
8 the woman's house and left the wallet and the woman very
9 well --


10 THE COURT: Then what I would suggest is that
11 if you want me to give a curative charge to the jury, I
12 will, regarding those items.

13 If you will have one tomorrow, I'll look at it
14 and I will indicate to the jury she's not being charged
15 with any crime other than this crime and they are not to
16 take into consideration that, the testimony regarding
17 those items, all right, have no bearing on her guilt or
18 innocence.

19 All right, tomorrow.

20 (Whereupon, the trial was adjourned to July 1,
21 2014.)

22 *****
23 CERTIFIED TO BE A TRUE AND ACCURATE TRANSCRIPT OF
24 THE ORIGINAL STENOGRAPHIC MINUTES TAKEN OF THIS
25 PROCEEDING.


MARLIN CASSIDY
Senior Court Reporter